UNIVERSITY OF TORONTO
3 1761 00075281 6

ECONOMIC HISTORY AND THEORY

BY THE SAME AUTHOR.

ENGLISH ECONOMIC HISTORY AND THEORY. Crown 8vo, Part I., 5*s.* net. Part II., 11*s.* net.

THE ECONOMIC ORGANISATION OF ENGLAND: an Outline History. Crown 8vo, 4*s.* net.

THE ADJUSTMENT OF WAGES: a Study on the Coal and Iron Industries of Great Britain and the United States. With 4 Maps. 8vo, 12*s.* 6*d.* net.

THE PROGRESS OF THE GERMAN WORKING CLASSES. With Map, Diagram, and Charts. Crown 8vo, 1*s.* 9*d.* net.

GOLD AND PRICES. 8vo, paper covers, 1*s.* 3*d.* net.

PRINCIPLES OF POLITICAL ECONOMY. With some of their Applications to Social Philosophy. By JOHN STUART MILL. Edited with an Introduction by Sir W. J. ASHLEY, Ph.D., Vice-Principal and Professor of Commerce in the University of Birmingham, and an Index by Miss M. E. ELLIS. Crown 8vo, 6*s.*

BRITISH DOMINIONS: Their present Commercial and Industrial Condition. A Series of General Reviews for Business Men and Students. Edited by Sir W. J. ASHLEY. Crown 8vo, 7*s.* net.

LONGMANS, GREEN & CO.
LONDON, NEW YORK, BOMBAY, CALCUTTA, AND MADRAS.

AN INTRODUCTION

TO

ENGLISH ECONOMIC HISTORY AND THEORY

BY

SIR W. J. ASHLEY

PH.D., M.A., M.COM.
PROFESSOR OF COMMERCE IN THE UNIVERSITY OF BIRMINGHAM
SOMETIME FELLOW OF LINCOLN COLLEGE, OXFORD
LATE PROFESSOR IN HARVARD UNIVERSITY

PART I

THE MIDDLE AGES

154753
14/20

TENTH IMPRESSION

LONGMANS, GREEN AND CO.
39 PATERNOSTER ROW, LONDON
FOURTH AVENUE & 30TH STREET, NEW YORK
BOMBAY, CALCUTTA, AND MADRAS
1919
All rights reserved

HC
254
A72
1906
v.1

BIBLIOGRAPHICAL NOTE

First Edition . .	*April*, 1888.
Reprinted. . . .	*May*, 1889.
Second Edition . .	*November*, 1892.
Third Edition . .	*June*, 1894.
Reprinted . . .	1901, 1906.
Fourth Edition . .	*July*, 1909.
Reprinted . . .	1911, 1913, 1919.

TO

THE MEMORY

OF

ARNOLD TOYNBEE.

CONTENTS

BOOK I.

FROM THE ELEVENTH TO THE FOURTEENTH CENTURY.

CHAPTER I.

The Manor and Village Community.

PAGE

AUTHORITIES 3

SECTION

1. THE MANORIAL SYSTEM 5
2. ITS ORIGIN. SPECIAL CIRCUMSTANCES OF EASTERN AND SOUTH-WESTERN ENGLAND 13
3. INCREASE IN THE NUMBER OF FREE TENANTS 19
4. COMMUTATION OF SERVICES FOR MONEY 29
5. ECONOMIC CHARACTERISTICS OF THE VILLAGE COMMUNITY .. 33
6. APPEARANCE OF A "MONEY-ECONOMY" 43

NOTES 50

CHAPTER II.

Merchant and Craft Gilds.

AUTHORITIES 67

SECTION

7. THE MERCHANT GILD 68
8. THE ORIGIN OF CRAFT GILDS 76

SECTION PAGE
9. Relations between the Craft Gilds and the Municipal Authorities 84
10. Internal Organization of the Craft Gilds 89
11. Economic Characteristics of the Craft Gilds 92
12. Internal Trade 96
13. Foreign Merchants in England 102
14. The Hanse and the Staple 109
Notes 114

CHAPTER III.

Economic Theories and Legislation.

Authorities 124
SECTION
15. The Teaching of the Church 126
16. Aquinas on Just Price 132
17. The Doctrine of Usury 148
18. History of the Currency 163
19. Weights and Measures 178
20. Regulation of Trade 181
21. The Assizes of Bread, Ale, and Wine 187
22. Caursines and Jews 195
23. Merchant Law 204
Notes 207
Index 223

PREFACE

Two causes, above all others, sometimes working separately, sometimes in conjunction, have gradually modified the character of economic science. These two causes are the growing importance of historical studies, and the application to society of the idea of evolution. The first to make itself felt was history: in the hands of Savigny it became the foundation of a new method of jurisprudence, the value of which has been signally illustrated in our own time by Maine; and from the lawyers the historical method passed to the economists. Yet the lessons of Roscher, of Hildebrand, and of Knies, remained for over a quarter of a century unheeded; nor did they begin to carry their due weight until the practical needs of modern life had shown the deficiencies of older economic methods. But, meanwhile, the idea of an orderly evolution of society had been slowly making itself felt,—an idea which, whether conceived, as by Hegel, as the progressive revelation of spirit, or, as by Comte, as the growth of humanity, or, as by

Spencer, as the adaptation of the social organism to its environment, had equally the effect of opening to the economist undreamt-of perspectives of the past and the future.

The nature of the change will be perceived if we examine the principles by which investigation is now guided. They may be thus stated—

(1) Political Economy is not a body of absolutely true doctrines, revealed to the world at the end of the last and the beginning of the present century, but a number of more or less valuable theories and generalizations.

(2) No age, since men began to speculate, has been without its economic ideas. Political Economy was not born fully armed from the brain of Adam Smith or any other thinker: its appearance as an independent science meant only the disentanglement of economic from philosophical and political speculation.

(3) Just as the history of society, in spite of apparent retrogressions, reveals an orderly development, so there has been an orderly development in the history of what men have thought, and therefore in what they have thought concerning the economic side of life.

(4) As modern economists have taken for their assumptions conditions which only in modern times have begun to exist, so earlier economic theories were based, consciously or unconsciously, on conditions then present. Hence the theories of the past must be judged in relation

to the facts of the past, and not in relation to those of the present.

(5) History seems to be proving that no great institution has been without its use for a time, and its relative justification. Similarly, it is beginning to appear that no great conception, no great body of doctrines which really influenced society for a long period, was without a certain truth and value, having regard to contemporary circumstances.

(6) Modern economic theories, therefore, are not universally true; they are true neither for the past, when the conditions they postulate did not exist, nor for the future, when, unless society becomes stationary, the conditions will have changed.

So much all economists would allow; and it need hardly be pointed out how considerable must be the effect of conceptions such as these, even with those who believe that the Political Economy of thirty or forty years ago is still the best clue to the questions of to-day. If no more is done, at any rate the belief in the perpetual validity of modern doctrines is destroyed; and while that remained, no real understanding was possible of the economic life of the past.

But the same two influences have produced still further effects, and, in particular, a divergence of opinion as to the proper method to pursue in the investigation of present phenomena. There are many intermediate shades of opinion, many interesting attempts at eclectic

compromise, but, in the main, economists tend in one of two opposite directions. Either they use the method of deduction, practised by Ricardo and defended by John Stuart Mill and Cairnes; or they proceed by way of historical inquiry, and the observation of actual facts. The former start from certain assumptions, such as that man is governed by self-interest, that there is freedom of competition, that capital and labour are transferable: from these they deduce certain *hypothetical* conclusions —conclusions, that is to say, only true so far as the assumptions are true; and then they hope, by introducing this and that limitation, to arrive at an explanation of particular problems. The latter try to free their minds at the outset of all *a priori* theories, and to see things as they actually are and have been, using deductive reasoning only as an occasional help in interpreting the results of their investigation. Among these, again, there is considerable divergence of opinion as to the kind of results to be aimed at, and the shape Political Economy should assume. An increasing number,—"the historical school" in the strict sense of the word,—hold that it is no longer worth while framing general formulas as to the relations between *individuals* in a given society, like the old "laws" of rent, wages, profits; and that what they must attempt to discover are the laws of social development—that is to say, generalizations as to the stages through which the economic life of society has actually moved. They

believe that knowledge like this will not only give them an insight into the past, but will enable them the better to understand the difficulties of the present.

[Bibliography.—For the recent history of economic discussion, see J. S. Mill, *Essays on Some Unsettled Questions of Political Economy*, (1844), esplly. Essay V.; Cairnes, *Logical Method of Political Economy*, (2nd ed., 1875), esplly. Lectures II., IV.; Cliffe Leslie, *Essays in Political and Moral Philosophy*, (1879), esplly. Essays X., XI., XIV.; Bagehot, *Economic Studies*, (1880); Ingram, Article on *Political Economy* (in *Ency. Brit.*, 9th ed.), about to be published separately; H. Sidgwick, *Principles of Political Economy*, (1883), Introduction. For the present position of thought in Germany, see Nasse, in *The Quarterly Journal of Economics*, (Boston, U.S.A.), for July, 1887; in France, Gide, *Chronique* in *Revue d'Economie Politique*, No. 1, 1887. The best, easily accessible presentment of the "historical" point of view will be found in Knies, *Die Politische Oeconomie vom Geschichtlichen Standpuncte*, (2nd ed., 1883), especially the Introduction; and Schmoller, *Ueber einige Grundfragen des Rechts und der Volkswirthschaft*, (1875), esplly. part 2.]

Oxford, *April*, 1888.

[Since the above bibliographical note was written, important developments have taken place in economic discussion. The most complete account of these is given in the collection of monographs presented to Professor Schmoller on his 70th birthday, entitled *Die Entwicklung der deutschen Wirthschaftslehre im neunzehnten Jahrhundert* (1908). This contains an article by the present writer on *The Present Position of Political Economy in England* (also in the *Econ. Journal*, xvii. 467); and by Gide on *L'École Française*. See also Marshall, *Principles* (5th ed., 1908), I. App. B.; Schmoller, *Grundriss* (ed., 1908) Einleitung III.; and Gide and Rist, *Histoire des doctrines Economiques* (1909).

Edgbaston, *June*, 1909.

PREFACE TO THE THIRD EDITION

In the present edition the opportunity has been taken so to modify a few passages as to remove certain inconsistencies between the first and second Parts, and also to make a number of verbal changes in the direction of greater accuracy. But the reader will remember that, although no very considerable discoveries have been made in the six years that have elapsed since the appearance of the first edition, the literature of the subject has been enriched in several directions. Professor Maitland in the *Introduction* to the *Placita in Curiis Magnatum Angliae* (Selden Society, 1889), and Mr. Blakesley in the *Law Quarterly Review* (April, 1889), have more than confirmed the suspicions here expressed (p. 61, n. 99) as to the legal doctrine of manorial courts, and, in particular, have shown good reason for believing that the "court baron" was not of "primitive" origin, but the comparatively late result of the growth of free tenure. Professor Paul Vinogradoff's *Villainage in England* (Oxford, 1892) has cast a flood of light on the agrarian usages and the legal theories of the thirteenth and fourteenth centuries. And Professor Gross's *Gild*

Merchant (Oxford, 1890) has presented the conclusions of his earlier *Gilda Mercatoria* in a far more complete form, and, in its second volume (*Proofs and Illustrations*), has given us a mass of previously unprinted material. Meanwhile, abroad, the second volume of Dr. Inama-Sternegg's *Deutsche Wirtschaftsgeschichte* (1891) has brought to our aid many suggestive parallels and contrasts; while the writings of Professors Karl Hegel (*Städte und Gilden der germanischen Völker*, 1891) and Georg von Below (*Entstehung der deutschen Stadtgemeinde*, 1889; *Ursprung der deutschen Stadtverfassung*, 1892), with the critical and controversial literature to which they have given rise, have added a new interest to early town history. For much of this recent literature, English and German, the student may be referred provisionally to a series of reviews by the present writer in the (New York) *Political Science Quarterly*, and the (London) *Economic Journal* since 1890.

It should be added that, in regard to the two important subjects of craft organization and the canonist doctrine, further consideration has led the author to a somewhat different judgment, and, he believes, a more adequate statement in the second Part. The accounts, therefore, given in this first Part of the earlier history of these matters, while, it is hoped, not incorrect so far as they go, need to be supplemented by the discussion of their subsequent history in later chapters.

CAMBRIDGE, MASS.,
May 19, 1894.

NOTE TO THE SIXTH IMPRESSION

The reviews referred to in the Preface to the Third Edition, together with accounts of certain subsequent works of importance, such as those of Professor Meitzen, of Mr. Seebohm on Wales, and of Professor Maitland, will now be found in a collected form in the author's volume of *Surveys, Historic and Economic* (1900). Students who are interested in the questions as to the nature and methods of Economics which are touched upon in the Preface to the First Edition may be referred to the two lectures *On the Study of Economic History* in the same volume, and to the article *Historical School of Economists* in Palgrave's *Dictionary*. The spirit and purpose of the German historical economists are now exhibited for our admiration in the great work of Professor Schmoller, *Grundriss der Allgemeinen Volkswirtschaftslehre* (part 1, 1900; part 2, 1904).

Edgbaston, *March*, 1906.

BOOK I.

FROM THE ELEVENTH TO THE FOURTEENTH CENTURY.

CHAPTER I.

THE MANOR AND VILLAGE COMMUNITY.

[Authorities.—The most important evidence earlier than the Norman Conquest is the A.-S. document, *Rectitudines Singularum Personarum*, printed with an old Latin version, probably of the twelfth century, in Thorpe, *Ancient Laws and Institutes* (1840), and with a German version in Schmid, *Gesetze der Angelsachsen* (1858). It records the duties of *thegn*, *geneat* (in the Latin version, *villanus*), *cotsetla*, and *gebur*, and seems to have been drawn up in the tenth century for the guidance of those who had to manage estates. The *Domesday Book*, 1086 (printed 1783; two supplementary volumes, 1816), states the value, extent, and number of tenants on every manor at three periods,—in the time of the Confessor, immediately after the Conquest, and at the date of the survey; but only exceptionally, *e.g.* in Middlesex, gives information as to the size of the villein holdings. Then comes a series of surveys or rentals of the manors of several great ecclesiastical corporations: of these the most important are the *Burton Chartulary*, between 1100 and 1113, in *Collections for the History of Staffordshire*, v. (1884); the *Liber Niger of Peterborough*, between 1125 and 1128, in Appendix to *Chronicon Petroburgense*, ed. Camden Soc. (1849); the *Boldon Book*, 1183, for the estates of the Bishop of Durham, in *Domesday Book*, iv. (1816), also ed. Greenwell, Surtees Soc. (1852); for the estates of S. Paul's, a fragment of the *Domesday of Ralph de Diceto*, 1181, an *Inquest* of 1222, a *Rental* of 1240, and a *Compotus Maneriorum et Firmorum* of 1300, in the *Domesday of S. Paul's*, ed. Hale, Camden Soc. (1858); the *Register of Worcester Priory*, 1240, ed. Hale, Camden Soc. (1865); many manorial *Extents* in the *Chartulary of Ramsey Monastery*, 1251–52, i., Rolls' Series (1886), and in the *Chartulary of Gloucester Monastery*, 1265–66, iii., Rolls' Series (1867); the *Custumals of Battle Abbey*, 1282–1312, ed. Scargill-Bird, Camden Soc. (1887); the *Rotulus Redituum*, 1290, in *Registrum Cartarum de Kelso*, ii., ed. Bannatyne Club (1846); a *Rental* of 1298 in *Coldingham*

Correspondence, ed. Surtees Soc. (1841); the *Magnus Rotulus* of Bp. Bec of Durham, 1307, in Greenwell's *Boldon Book*, App.; and an excerpt for the single manor of *Bleadon* from the *Custumal of S. Swithun*, Winchester, in *Proc. Archæol. Instit.* (1849).

It might, however, be thought that ecclesiastical estates differed from lay, or large estates from small, in the character and occupations of their inhabitants. This is disproved by the *Rotuli Hundredorum* of 1279 (printed 1818), much the most important authority for social history after *Domesday*. They give detailed accounts of every manor and every tenant over a large part of Mid-England. The *Extenta Manerii*, of uncertain date but usually ascribed to 4 Edward I. (*Statutes of Realm*, i. 242), is a list of instructions, of general applicability, for drawing up a survey of a manor. The treatise of the lawyer *Bracton*, of the reign of Henry III., furnishes definitions of the status of different classes: but the ordinary text contains interpolations inconsistent with its general sense, and until the work has been critically edited it cannot be trusted as an authority. (See Vinogradoff on "The Text of Bracton," in *Law Quart. Rev.*, April, 1885). *Fleta*, a contemporary legal handbook, adds colour to the picture by its description of the duties of steward, bailiff, reeve, and other manorial servants. It was printed by Selden in 1647, and by Houard in *Coutumes Anglo-normandes*, iii., in 1776. A *Rental* of 1298 and a *Bailiff's Account* for 1316–17, are printed in Rogers, *Hist. of Agriculture*, ii. (1866); and a most valuable *Rental* and *Custumal* of 1340 in Scrope, *Hist. of Castle Combe* (1852). The close resemblance of Normandy to England in respect of the relations of classes will be seen on reference to Leopold Delisle, *Études sur la Condition de la Classe Agricole, etc., en Normandie* (1852); see especially the *Rental* of the Abbey of *Mont S. Michel*, p. 673, seq.

Of modern writers, the first that needs to be mentioned is John Mitchell Kemble (*Saxons in England*; 1848). He describes the *mark* as "a *voluntary* association of *freemen*," and asserts that "this is the original basis upon which all Teutonic society rests." This theory was worked out, with special regard to Germany, by Georg von Maurer, in a series of writings, of which the most important were the *Einleitung zur Geschichte der Mark-, Hof-, Dorf-, und Stadt-Verfassung* (1854), and *Geschichte der Fronhöfe, der Bauernhöfe u. der Hof-Verfassung in Deutschland*, (1862–63). Strictly agricultural history has been investigated with great success by Georg Hanssen, whose papers are collected in *Agrarhistorische Abhandlungen* (i. 1880; see especially his review of Nasse, p. 484, seq.). The first to apply with any detail the theory of the mark to England was Nasse, in *The Agricultural Community of the Middle Ages and the Inclosures of the Sixteenth Century in England*, transl. for the Cobden Club

(1871). Sir Henry Maine, accepting the general conclusions of Maurer and Nasse, commented upon their results, and tried to confirm them by Indian parallels in *Village Communities in East and West* (1871).

For some time the theory that the manor grew out of a free mark community reigned supreme in England. Bp. Stubbs was indeed careful, in his *Constitutional History* (1873), not to commit himself to it unreservedly; but his general argument as to the growth of relations of dependence led to the conclusion that the power of the lord of the manor was, generally speaking, of late and gradual development.

Meanwhile, in the apparent success of German research, another line of investigation, represented especially by French scholars, had been singularly neglected. Guérard, in his Prolegomena (1844) to the *Polyptique* of the Abbot Irminon, a register of the lands of the Abbey of St. Germain under Charles the Great, attempted to trace all the main characteristics of the manor to the legislation of the later Roman Empire. Since the Franco-German war, his work has been resumed by a school of French critics, who have called in question many of the positions as to mediæval history which seemed to be won by German industry. Its leader is M. Fustel de Coulanges, who declares (*Recherches sur quelques Problèmes d'Histoire*, 1885) that the primitive free mark community is a figment of the Teutonic brain. (See criticism by Elton, "Early Forms of Landholding," in *Eng. Hist. Rev.*, July, 1886.) But the work of most interest for us is Seebohm's *English Village Community* (1883), which aims at proving that "English economic history *begins* with the serfdom of the masses of the rural population under Saxon rule,—a serfdom from which it has taken a thousand years to set them free." His book has reopened for England the whole question of the origin of the manor; and whatever may be the ultimate conclusion on that subject, he certainly has been the first to make it clearly understood what the system of cultivation and landholding really was. On the internal life of the manor from the fourteenth to the sixteenth century much information is given in Rogers, *Hist. of Agriculture*, and *Six Centuries of Work and Wages*. An Elizabethan lawyer's view of the matter, with interesting particulars, will be found in the popular text-book, *Le Court Leete et Court Baron*, "collect per John Kytchen," in French, 1580, and frequently printed; published in English as *Jurisdictions, or the Lawful Authority of Courts Leet*, 1653.]

§ 1. TILL nearly the end of the fourteenth century, England was a purely agricultural country. Such manufactures as it possessed were entirely for consumption within

the land; and for goods of the finer qualities it was dependent on importation from abroad. The only articles of export were the raw products of the country, and of these by far the most important was the agricultural product, wool. To understand, therefore, the life of rural England during this period, is to understand nine-tenths of its economic activity.

In the eleventh century, and long afterwards, the whole country, outside the larger towns, was divided into manors—into districts, that is to say, in each of which one person, called the *lord*, possessed certain important and valuable rights over all the other inhabitants. Sometimes one village was divided between two manors; sometimes part of a village formed a manor dependent on that from which it had been broken off; but such conditions were always exceptional, and are less frequent the further we go back. The vast majority of manors consisted of but one village and the lands surrounding it cultivated by its inhabitants; and we may regard that as the normal state of things.

Let us picture to ourselves an eleventh-century manor in Middle or Southern England. There was a village street, and along each side of it the houses of the cultivators of the soil, with little yards around them: as yet there were no scattered farmhouses, such as were to appear later. Stretching away from the village was the arable land, divided usually into three fields, sown one with wheat or rye, one with oats or barley, while one was left fallow. The fields were again subdivided into what were usually called "furlongs;" and each furlong into acre or half-acre strips, separated, not by hedges, but by "balks" of unploughed turf; and these strips were distributed among the cultivators in such a way that each man's holding was made up of strips scattered up and down the three fields, and no man held two adjoining pieces. Each individual holder was bound to cultivate his

strips in accordance with the rotation of crops observed by his neighbours. Besides the arable fields there were also meadows, enclosed for hay-harvest, and divided into portions by lot or rotation or custom, and after hay-harvest thrown open again for the cattle to pasture upon.[1] In most cases there was also some permanent pasture or wood, into which the cattle were turned, either "without stint" or in numbers proportioned to the extent of each man's holding.

In modern times arable lands thus divided have been known as "common," "commonable," "open," or "intermixed" fields; and the meadows are often called "Lammas lands," from the day on which the enclosures are removed.[2]

Supposing such fields and meadows were owned in common by a group of freemen, the condition of things would be what is called the *mark system.* But the manorial system was something very different; for in a manor the land was regarded as the property, not of the cultivators, but of a lord. It was divided into that part cultivated for the immediate benefit of the lord, the *demesne* or *inland*,[3] and that held of him by tenants, the land *in villenage;* the latter being usually three-fifths or two-thirds of the whole. The demesne consisted partly of separate closes, partly of acres scattered among those of the tenants in the common fields;[4] and we may, later, see reason to believe that originally the lord's portion had consisted entirely of such scattered acres, with possibly a rather larger farmyard around his house than those of the rest of the villagers. Of the land held in villenage, far the greater part was held in *whole* or *half virgates* or *yardlands*, known in the north as *husbandlands*,[5] in some parts of the south as *wistas*.[6] The virgate was a holding made up of scattered acre or half-acre strips in the three fields, with appurtenant and proportionate rights to meadow and pasture; and its extent, there can be no doubt, was

usually thirty acres, although in some manors it was as few as sixteen, in others as many as forty-eight.[7] The holders of such virgates or half virgates formed a class socially equal among themselves, and all of them, in any particular manor, with the same obligations of service to the lord. They were known as *villani*, i.e. the "villagers" *par excellence*, and in the thirteenth century as *virgarii*, in English *yardlings*, while in the north they often bore the title *husbands*.

Below these was the class of *bordars* and *cotters*, most of them holding only a cottage and one or two acres, though sometimes as many as five, eight, or ten acres—of course in the common fields. They seem to have been marked off from the *villeins* proper by not possessing oxen or plough; and probably in many cases they were employed by the villeins. During the couple of centuries which followed the Conquest the name *bordarius*, which was perhaps a Norman importation, was replaced by the older English name *cotman* or *cotter*.[8] In some cases between the yardlings and the cotters there was an intermediate class of holders of half virgates; *half-villeins* and *half-yardlings*, as they were called.[9]

The whole of the land of the manor, both demesne and villenage, was cultivated on an elaborate system of joint labour. The only permanent labourers upon the demesne itself were a few slaves;[10] all or almost all the labour there necessary was furnished by the villeins and cotters, as the condition on which they held their holdings, and under the supervision of the lord's bailiff. *Domesday Book* does not itself record the services due from the villeins; but the *Liber Niger* of Peterborough, less than forty years later, gives for each manor of that monastery a detailed account of the tenants' labour-dues—an account in striking agreement with the lists of services in the *Rectitudines Singularum*

Personarum, a century and a half earlier in date.[11] Of all the later surveys, inquests, or rentals for three centuries, such lists of services form the most important and characteristic part. At first sight bewildering in their complexity, the duties they register may readily be distinguished as falling under two main heads: (1) a man's labour for two or three days a week throughout the year, known as *week work* or *daily works*;[12] and (2) additional labour for a few days at spring and autumn ploughing and at harvest time. On such occasions the lord frequently demanded the labour of the whole family, with the exception of the housewife.[13] These additional services were known as *precariae* or *precationes* (*i.e.* at the request of the lord, *ad precem*), for which the commonest English expressions were *boondays*, *loveboons*, and *bedrips* (*reaping* specially *bidden*).[14] Besides these, there were usually small quarterly payments to be made in money, and miscellaneous dues in kind, differing from manor to manor,—so many hens and eggs, or so many bushels of oats at various seasons; as well as miscellaneous services, also differing in the different manors, of which the one most frequently mentioned is "carting" (*averagium*, *summagium*). During the boondays it was usual for the lord to feed the labourers; and, in the later custumals, the precise definition of the days upon which they were and were not to be fed at the lord's expense, or, even more minutely, when they were to have drink and nothing else, when bread and no drink—a "*dry* repast," when black bread, when white, when even meat, broth, and cheese, often enlivens the dull record with a gleam of humour. In one place, indeed, we are told that on the last two days of harvesting each labourer could bring a comrade to supper.[15]

How the lands were actually cultivated we have little information; but *Fleta's* statements as to the duties of bailiff

and reeve afford some glimpses into a system of common cultivation, which had probably not varied in its main features for centuries. The chief defect of the account there given is that it is written to meet the needs of the lords of manors and their stewards, and that therefore it speaks only of the cultivation of the demesne, and tells nothing of the way in which the land in villenage was tilled; although, considering that the demesne and villenage were often, if not always, in intermixed acres, it is clear that the cultivation of the demesne and of the villenage could not have been carried on apart from one another.

The most laborious work was that of ploughing. The demesne and the villenage seem to have had each their own ploughs; those of the demesne being usually heavier, and needing more cattle to draw them. For the ploughing of the demesne the lord's ploughs were assisted by those of the villeins, to which they were bound to furnish oxen and men in due rotation and proportion. The invariable rule in the surveys was either to state generally the services due from *every* villein, and then those from every cotter (in the latter case usually fewer days' work a week—one or two instead of two or three—and never *ploughing*, since cotters did not possess oxen[16]), or else to give in detail the services of the first virgate holder, half-virgate holder or cotter mentioned, and add after each following name that he performs the same work as A. B., the case detailed.[17]

The writer of *Fleta* describes each manor belonging to a great lord or corporation as managed by three officers—a steward, a bailiff, and a reeve.[18] The steward, or seneschal, was not strictly a manorial officer, but the lord's representative over a number of manors; and his chief duty, besides a general control of the bailiffs, was to hold the manorial courts. But in order to perform these administrative duties

properly he must be acquainted with the condition of each manor. He should ascertain, says *Fleta*, the customary services due from each tenant, find out if any has sold his holding without permission, and, if so, who was bailiff at the time and responsible. He should know the number of acres to be ploughed, and the amount of seed necessary for sowing, lest his master should be defrauded by "cheating reeves;" he should know also how many tenants' ploughs should help in tilling the demesne, and how often they were to be furnished. Above all, he must watch the conduct of the bailiffs, to see that they do not abuse their power or injure their master's interests: "he shall inquire how the bailiff behaves towards the neighbours and tenants of the lord; whether he mixes in quarrels or spends his nights in taverns. If the bailiff cause loss to the lord by his misconduct he must make it good; if his offences are frequent the steward shall remove him." It was doubtless only great proprietors who had stewards; the lord of a single manor, living in the village, could himself hold the courts and keep the bailiff in check.

The bailiff was the resident representative of the lord in the manor, and was especially charged with the cultivation of the demesne. "The bailiff should rise early in the morning, and see that the plough-teams are yoked; and then he should walk round and inspect the tilled fields, woods, meadows, and pastures. Then he should visit the ploughs at their work, and take care that the oxen are not unyoked till a full day's work has been done." He is to direct the reaping, mowing, carting, and other work; to see that the land is properly marled and manured; to prevent the horses being overworked; and to watch the threshers in the barn.

The reeve, on the other hand, is represented as a sort of foreman[19] of the villagers. He was, according to *Fleta*,

to be chosen by the *villata*, or body of villeins, as the man best skilled in agriculture, and to be presented to the lord or his steward for his acceptance. Responsible to the lord for the due performance of the villein services, he was yet regarded as the representative of the villeins, and on their behalf he "kept a tally of the day-works, and reckoned them up with the bailiff at the end of the week."[20] He was to see that the demesne and villein ploughs were set to work early; that the land was properly sown, and not too lightly; and that it was well manured. Mr. Wallace tells us that in the Russian villages of to-day there is usually the greatest reluctance to accept the office of village elder, and thereby become responsible to the government for the village taxes; so that a peasant who, for some slight offence, was informed by an official that he was no longer capable of filling any communal office, "bowed very low, and respectfully expressed his thanks for the new privilege which he had acquired."[21] Doubtless the office of reeve was regarded with similar feelings in England; else it would not have been necessary to insert the note which we sometimes find on a custom-roll, that every holder of a virgate or half-virgate could be compelled to accept the office.[22] It was usual, however, to reward the reeve by exempting him partially or wholly from labour-dues during his term of office, or even by giving him an additional piece of land.[23] It may, indeed, be doubted whether the description in *Fleta* actually corresponded with the general practice—whether there were in fact both a bailiff and a reeve on every manor. It is more likely that this was a lawyer's generalization, never really true, or that, if it ever had been true, it was already, by the time that book was written, ceasing to be so. For certainly, at the beginning of the fourteenth century there seems to have been usually only one person superintending the cultivation

of the manor, and called indifferently reeve or bailiff.[24] But this person clearly performed much the same duties as are ascribed to the bailiff in *Fleta*, so that we need not doubt the general correctness of the picture of co-operative agriculture there given to us.

Of the other side of village life—the labour of the tenants upon their own virgates—we have no knowledge; we can only conjecture that it also was carried on by a system of joint labour, each holder contributing oxen and men to the common ploughs in proportion to his holding, probably also joining his fellows in mowing hay and reaping corn on some common plan.

§ 2. It has been necessary to begin with this outline of the manorial system in order that the nature of the problem of early social history in England should be understood. It is now possible to turn back and explain why it is here deemed advisable to begin at the eleventh century and not earlier, and why the description given above is guarded by the limitation to the midland and southern counties.

It is well to begin with the eleventh century, because there can be no reasonable doubt that at that time the whole of central England was covered with manors of substantially the same character; and we cannot begin earlier because it is by no means agreed how that condition of things came about. The most vital of all the questions in the early social history of England is still in dispute, namely whether it began with a population of freemen or a population of serfs. From the nature of the case this must for the present remain a subject for research. But it is impossible altogether to avoid the controversy, and a statement of the points at issue will bring out more clearly the character of the manorial system itself.

A lecturer, dealing with this subject ten years ago, would

probably have set out with the confident assertion that the greater part of the English population were at first grouped together in free self-governing village communities. He would indeed have granted that some of the great nobles, having many dependents, possibly from the very first in a few isolated districts created settlements something like the later manors; and also that a similar shape was possibly taken by the settlements of cultivators on the King's land. But these he would have considered as comparatively exceptional, and, speaking generally, the manorial organization would have been regarded as something superimposed on the old free community. The power of the lord he would have described as of very slow growth; as due to royal grants of jurisdiction, to the dangers which forced the freeman to commend himself to some more powerful neighbour, and to the assimilation of the free community under a lord's jurisdiction to a dependent community living on a lord's land. He would have argued that this process was hastened by the Norman Conquest; and that the Norman lawyers, with their rigid terminology of *villanus* and *bordarius*, gave a seeming uniformity to a condition of things in which there were still very considerable differences of status.

Such was the form into which the caution of the Bishop of Chester threw the main proposition of modern German historians—the proposition, namely, that Teutonic history begins with groups of *freemen*. But of late years this construction has been assailed from two directions. M. Fustel de Coulanges and a knot of French scholars have shown how scanty and ambiguous is the evidence on which the German theories were built; and, in especial, that all the essential features of the manor, as an *agricultural* group subject to a lord, with the exception of the lord's *jurisdiction*, may reason-

ably be traced to the later Roman law. Still more important is the recent work of Mr. Seebohm, which aims at establishing the proposition that the mass of the people, in what is now England, were from the first in a servile condition, and that their history, up to the Norman Conquest and beyond, has been one of progressive amelioration. The strength of his argument does not lie in the actual examples adduced by him earlier than the eleventh century, which may all be made out to be exceptional because taken from the royal demesne; but in that he really makes us understand what the internal organization of the manor was, and shows how uniform were its main characteristics. It is the uniform agricultural system, the system of joint compulsory labour, that is so difficult to explain on the old hypothesis. For, even granting, as perhaps the adherents of the old theory would, that a fourth of the manors may have existed from the first, it is hard to believe that the other three-fourths arose out of free communities, which had gradually become subject to such extremely onerous burdens. We should at any rate expect to find many intermediate stages,—cases in which the lord, by his own servants, cultivated the demesne, receiving from the tenants only suit at his court; cases, again, in which he received suit and rent without labour, and others in which the labour services were only occasional. we should not expect, on the theory of the gradual fall of free communities, that the services of the tenants would be so burdensome, and so uniformly the same. But it must be acknowledged that the hypothesis of the original serfdom of the bulk of the population (whether English or Romanized Celt) is not without its difficulties. The districts from which Angles, Saxons, and Jutes came are districts in which is now found neither a three-field system, as was most usual in England, nor a two-field system, which also frequently

occurs, but a one-field system, which has existed for centuries,—the plan of raising the same crops on the same land without fallow.[25] It must be supposed, therefore, that the English invaders found the three-field system already in Britain. Mr. Seebohm seems to believe that the mass of the Provincials or Romanized Celts were spared by the conquerors;[26] that the greater men among the invaders became lords of manors; while the rank and file received free allotments, or even settled in free village communities, but were so few in number as not substantially to influence the late development.[27] Mr. Freeman has argued that in that case the language of the conquerors would have been overcome, as in Gaul and Spain, and that Christianity would not so completely have disappeared as at Augustine's landing. These arguments would be unanswerable could we suppose that Britain had been either so thoroughly Romanized or so thoroughly Christianized as the other Roman provinces. But that was certainly not the case.

Whatever supposition may be adopted as to the origin of the manor, whether it rose out of freedom or servitude, there is little difficulty in explaining the origin of the curious dispersal of each man's tenancy in divided acres. In the Welsh laws we find regulations, applicable to an earlier social stage than any of which we have documentary evidence among the English, which regulate the common ploughing of the agricultural group. These lay down that every year the first strip that is ploughed shall be allotted to the ploughman, the next to the irons (*i.e.* to him who had furnished the ploughshare, etc.), the next to the first ox, *i.e.* its owner, and so for the seven other oxen, the driver and the plough (*i.e.* the carpenter who made and repaired it). Thus he who furnished one ox would have one strip out of every ten or so; those furnishing two, twice as

many.[28] There are many indications that the ordinary contribution of a "full villein" to the communal team was two oxen;[29] if the later state of things, with the permanent individual tenancy of particular acres, had arisen out of an earlier system of annual division, we can readily understand that there would be uniformity in the amount of holding of all those who furnished two oxen (the *virgarii*, or *pleni villani*), and of those who furnished only one (the *semi-virgarii, dimidii villani*), and that those who had contributed no oxen at all would have scanty shares or no more than cottages, unless they had acted as ploughmen or carpenters. In the later surveys we constantly find that one man's strips adjoin those of the same fellow-tenant,[30] which strengthens the hypothesis that "intermixed" fields were due to the distribution of acres in order of oxen, so that each man might have his share both of good land and of bad, in proportion to the number of his oxen.

The description of the manor in the last section was limited to central and southern England, and this because two other classes besides villeins and cotters appear in the east and south-west. Of the population recorded in *Domesday*, villeins and bordars are scattered pretty evenly over the country, the average percentage of the former being 38, of the latter 32, making up between them seven-tenths of the whole.[31] But the *servi*, or slaves, whose average percentage for the whole land is 9, and who in some of the eastern and midland shires do not appear at all, or fall to a percentage of 4 or 5, rise in the country on the Welsh border and in the south-west to 17, 18, 21, and 24 per cent. We cannot but explain this by the supposition that in the later stages of the English conquest a greater number of the British cultivators were spared, so that in these districts slaves came to form a considerable part of the rural

population. Absolute slavery, however, disappeared in less than a century after the Conquest, and the *servi* became customary holders of small plots, like the cotters elsewhere but on more onerous conditions.[32]

In the eastern and east-central counties, on the other hand, the *socmen* and *liberi homines*, who do not form more than 4 per cent. of the whole population, and in the south and the greater part of the midlands are entirely absent, rise to as much as 27, 28, 32, 40 and 45 per cent. of the whole.[33] As surely as the slaves in the west are connected with the Britons, so surely are the socmen and freemen of the east connected with the Danish settlements. And there can be little doubt that the names *socman* (*i.e.* one subject to the *soc*, or jurisdiction, of a lord) and *freeman* (*i.e.* one free from what were regarded as servile conditions of tenure, whatever these may have been), had very much the same meaning.

The fact that *Domesday* records in Suffolk 35 per cent. of the population as freemen and only 5 per cent. as socmen, in Norfolk 16 per cent. of each, in Lincoln 45 per cent. as socmen and no freemen at all, can only be explained by the supposition that the "barones regis" who drew up the survey often described as socmen, in one shire, persons whom their fellows in the neighbouring shire called freemen. It may be gathered from the scanty evidence of *Domesday*, compared with that furnished in the *Liber Niger* of Peterborough for the manors of that monastery, that the word *socmen* covered two widely differing classes; namely, men holding very considerable portions of manors with villeins dependent upon them, and men holding only virgates or portions of virgates and forming part of the labouring village community. The former, however, were but few in number. They may be regarded as landowners who, until the Norman Conquest, had not been considered as *tenants at*

all of the more powerful neighbours to whose *soc* they were subject; although, like the *commended freemen*, who are also occasionally described as holding large estates with villeins and bordars upon them, the result of the Norman Conquest must have been to turn them into sub-tenants, holding what may afterwards have become sub-manors.[34]

But the great body of socmen were clearly enough in much the same position as villeins, with two important differences. They were not bound to week-work,[35] the most distinctive mark of villein tenure; and they were, frequently at any rate, bound to military service.[36] But they were obliged to take part in the *precariae*—to join in harrowing and harvesting, and to assist the lord for a few days with their ploughs in autumn and spring.[37] Their holdings—though not always whole virgates—are often estimated in virgates, from which it follows that they were made up of scattered strips in the common fields. Like the villeins, they could not sell their lands,[38] nor leave the manor without their lord's consent.[39] The great body of socmen, then, were members of the village groups, joining in the system of common agriculture, but with less burdensome services and more honourable duties. We may reasonably conjecture that this state of things was due to Danish chiefs seizing the manor houses and putting their followers in the place of some of the Saxons villeins; and that the new comers, while willing to assist their lords at busy times, would not submit to labour for them so many days a week, like those whose places they had taken.

§ 3. Keeping before our minds the typical manor with its division into demesne and villenage, and its sharply distinguished classes of villeins and cotters, let us attempt to trace the changes which gradually took place during the three centuries which followed the Norman Conquest. In

so doing it will be well to restrict our view to the evidence furnished by custumals and rentals, and to pay no regard to the definitions of the lawyers; and this because definitions throw a fallacious veil of uniformity over widely differing circumstances; because, moreover, the lawyers of the thirteenth century saw English facts through the spectacles of the Roman law;[40] and further, with especial regard to Bracton, because the work which passes under his name is full of interpolations, inconsistent with the general argument.

When we compare the comparative simplicity of *Domesday Book*, in which, over the greater part of England, villeins, cotters or bordars, and slaves make up the whole of the population, with the elaborate division into six, eight, or even ten classes in the custumals of the later part of the thirteenth century,[41] the changes seem bewildering in their complexity and variety. But it will be found that most of them may be grouped under four heads: (1) the growth of of a large class of free tenants; (2) the commutation of the week-work for pecuniary payments; (3) the commutation of the boon-days and other special services; and (4) the appearance of a class of men dependent wholly or in part on the wages they received for agricultural labour.

i. (a) The rapid increase in the number of free tenants after the Conquest is one of the most certain and important of facts. Now, the term *libere tenentes* is elastic enough to cover men in very different positions, from the military tenant who had obtained a considerable holding in return for service in the field, down to the man who had received at a money rent one or two acres of the demesne, or of newly cleared ground. But the larger number of those known by that name were, clearly, virgate-holding villeins or the descendants of such, who had commuted their more onerous labour services of two or three days a week for a fixed sum of

money, and had been freed from what were regarded as the more servile "incidents" of their position.[42] What these exactly were, or, indeed, what was understood by free tenure, it is difficult now to determine, precisely because the lawyers and landlords of the time did not themselves know. The most widely spread idea was that inability to give a daughter in marriage or to sell an ox or a horse without the lord's consent, for which a fine had to be paid, was the certain mark of servile tenure.[43] These disabilities were, possibly, survivals from the time when such marriage or sale lessened the working power of the manor.[44] The distinction between free and servile tenure which they involved was confirmed by judicial decision; for, when, in the fifteenth year of John, the question arose as to whether a certain man held freely or no, and the jurors of the neighbourhood reported that he was bound to plough three acres of his lord's land, to mow and carry home a certain quantity of hay, and to assist his lord in autumn, but that "they never heard tell that he paid a fine to the lord on marrying a daughter, or selling an ox," the judges decided that services such as these did not make the holding a villein one.[45] Yet we find cases in which men, not bound to week-work and undoubtedly regarded as free tenants, were still subject to these annoying restrictions.[46] The same uncertainty as to what constituted a free holding is illustrated by the fact that those tenants known as *molmen* or *malmen*, from having gained exemption from the "greater services" in return for a rent, *mol* or *mail*, though they were usually registered as servile, were yet sometimes counted among free tenants.[47]

Indeed, all that can be said is that permanence of tenure, which in the case of servile holdings was guaranteed only by custom and the morality of the time, could, in the case of a tenant able to satisfy the judges that his holding was not

servile, be maintained by action in the royal courts. But this does not show how the fact of free tenure was determined. Such cases can have occurred but seldom, and probably the legal interpretations were not always consistent. In the thirteenth century, if not earlier, free tenants often obtained charters from their lords conferring possession "for ever," or, "to themselves and their heirs," so that the holding *by charter* came itself to be popularly regarded as a sign of freedom.[48] But there were free tenants who never had charters.[49]

The process of commutation had probably begun before the Conquest, and, if so, this will help us to explain the entries in the *Domesday Survey* relative to some few hundred persons described as *censores* or *censarii*,[50] and *coliberti*.[51] The itinerant barons who drew up the survey must have come across men whose position was the same as that of the villeins, save that they paid rent instead of daily service, and for these men they would naturally make use of terms in general use on the continent to describe tenants intermediate in position between the altogether free and the altogether servile. The Norman Conquest would not hinder, would rather hasten the process of commutation. There are indeed isolated cases of men being unjustly degraded by the new lords from the position of free tenants to that of villeins,[52] but acts of oppression like these had no special connection with the Conquest, and might easily have happened long before, as we know they happened long after,[53] that event. Indeed, when we begin to understand the character of the agricultural system, we can see that with the lords it was not at all a question of sentiment either for or against free tenure, but merely a question of relative advantage. The man who became a free tenant continued to provide his lord with labour at those seasons when it was

most needed; and the money, which he paid in exchange for his week-work, might be much more useful to the lord than the work itself. Accordingly we should expect, with the greater security which the Norman rule brought, and the increased population and cheaper labour consequent upon it, that commutation would take place with increasing frequency. This is, in fact, exactly what we find.[54] For example, in the reign of Henry I. all the manors of the Abbot of Burton were already divided between *demesne*, land *at work*, and land *at rent* (*ad opus* and *ad malam*[55]); the holders of the latter (who are also described by the *Domesday* term *censarii*[56]), were quite free from week-work, but were still bound to lend their ploughs twice a year, and three times to assist in reaping.

The general development, however, and the use of the term "free tenants" for men in the position of *censarii*, will be best illustrated from a particular manor, which we have excellent means of studying during two centuries. The manor of Beauchamp, in Essex, belonging to the Chapter of S. Paul's, appears in the survey of 1086, in a fragmentary *Domesday*, which the Dean and historian Ralph de Diceto caused to be drawn up in 1181, and in the *Domesday of S. Paul's* of 1222: we have also a rent-roll for certain of its lands in 1240; and there is in existence a survey of 1279, from which, however, only a few particulars have been printed.[57] Now, in the *Domesday Book* the tenants are stated to be twenty-four villeins, ten bordarii, five servi; there are no free tenants or socmen of any sort. But in 1181 there are not only thirty-five tenants-in-demesne (of whom many have very small pieces, and may reasonably be regarded as the descendants of *servi*, to whom small holdings have been given), but there are eighteen *liberi tenentes*, all of whose holdings are reckoned in virgates

or fractions of virgates, and all of whom, though they pay considerable sums annually for their land, are still bound to precariae, so that they are evidently the descendants of the villeins of *Domesday*.[58] Besides these there are ten holders of *terrae operariae* corresponding to the "work-land" of other documents;[59] and at this point the record breaks off, and we do not know how many more holders of half virgates there may have been, or how many cotters with still smaller portions. In the lists of 1222 the number of tenants-in-demesne has increased; but so has also that of free tenants—in the latter case from eighteen to thirty-four; though, as the area held by them has only increased from 667 to 744 acres, this greater number must be due chiefly to subdivision. But the last two names there given seem to be those, in the one case, of a man who had himself held work-land in 1181, and in the other of the son of a man in that position; so that we may regard these as having risen to free tenure in the forty years that had elapsed.

After the free tenants follow the names of sixteen holders of work-lands, each with half a virgate. This last entry is significant; for we find, in some districts at least, a very marked increase, in the century after the Conquest, in the number of *dimidii virgarii*, holders of half virgates,[60] owing, perhaps, to more land being put under the plough, or to the division of virgates between two persons. And, as we might expect, while the yardlings were often able to commute their services and become free tenants, the half-yardlings, as in the Beauchamp case just cited, and in many others, long remained bound to week-work.[61]

The Beauchamp rental illustrates another very important point. It is that while servile holdings retain their uniformity of size in each manor—continue, that is to say, to consist of yardlands or half yardlands,—the free holdings on an estate

differ very considerably in size from one another. But it is noticeable that, whatever the holdings may be—and some of them are very small,—they are all multiples or fractions of thirty acres, *i.e.* of virgates. Some of the holdings, indeed, are of sizes that are only explicable as fractions of the virgate, *e.g.* 22½ acres as three-quarters, and 7½ acres as a quarter of such a unit. In a few cases they are larger: one tenant holds fifty acres, *i.e.* a virgate and two-thirds, together with two whole virgates, two half virgates, and a third; and two other tenants have two virgates each. Cases in which a similar difference of size appears are frequently to be met with.[63] The curiously fractional holdings can scarcely be due to any other cause but division between children; and the aggregation of holdings may have been caused by inheritance or purchase. However this may be explained, even if we do not accept Mr. Seebohm's theory, that equality of holding is itself a mark of the servile origin of the tenure,[68] it is clear that free tenure tended to cause holdings to become subdivided or aggregated either by succession or otherwise; that increasing personal freedom, in this as in many other things, brought greater economic inequality. This tendency would be checked as soon as primogeniture, instead of division, became the rule of succession to free non-military holdings—a change which seems to have taken place pretty generally before the fourteenth century.[64] We know nothing of the cause, and can only conjecture that it was due to the contagious example of the rule of primogeniture in holdings in chivalry.

(β) There was an increase also of another class of men freed from the more servile burdens of villenage, viz. the class of socmen;[65] and this increase was so marked that *socage* became the lawyer's term for free non-military tenure.

It has been seen that in many cases a holding was spoken of as free though the tenant was still bound to precariae, to assist at ploughing, harvesting, etc. But this seems to be in districts where there were no socmen; where both classes are found, and their positions can be compared, the distinction seems to be that in such districts the term *free tenants* is employed exclusively for those who were free from labour altogether, while the term *socmen* was used for those who were still bound to precariae, though released from other services. Hence an inquisition at the end of the thirteenth century distinguishes between the two classes, which it puts at the head of the tenants, as "freeholders by charter," and "freeholders who are called free socmen."[66]

(γ) In some manors it was possible for the number of freeholdings to be raised by an increase in the extent of cultivated land. Near most villages was a stretch of "waste" land, covered with trees and bushes and used for common pasturage. As the increase of population strengthened the labour forces of the manor, it became the lord's interest to enclose portions of the waste, and either add them to his demesne or let them to the villagers. By the statute of Merton, indeed, in 1235, the lord's right of "approver," or improvement, was limited by the condition that he should leave sufficient pasture for "knights and freeholders . . . infeoffed of small tenements" in the manor;[67] and a custom which grew up in many places made the consent of the "homage," *i.e.* the body of free tenants, necessary before any grant from the waste could be made.[68] But as the freeholders were few in number, the action of manorial lords would be but little hampered by this restriction. The grants seem almost invariably to have been small; cases in which they are as large as ten or twelve acres are very rare, and usually they are only five, four, three, or two acres, very frequently one acre or even one *rood*:

and they were always let at money rents, and never subject to labour obligations. Among the names of the tenants of the *essart*, or clearance, we find many who held at the same time either virgates in free tenure or land in villenage; but probably in most cases the new holdings were given to the younger sons of tenants—especially cotters—who otherwise would have held no land at all.[69] It was here, and on the demesne, that cottages and plots of land were found for the artisans, mostly *weavers*,[70] who first show themselves in the villages in the thirteenth century. This is itself a sign of an increasing division of employments; for before this time the housewives had woven the cloth which their families needed.[71]

(δ) Hitherto all the free holdings described were such as were created on the land held in villenage, or on land which the villeins had previously used in common. Allusion, however, has already been made to tenants holding demesne land. The letting of portions of the demesne for money rents had in many instances taken place quite as early as any of the other changes which have been described;[72] but it was thought well to reserve its consideration to this point, in order to keep clearly marked the distinction between the two parts into which the lands of every manor were divided, the lands in villenage and the lands in demesne. It has been seen that the whole organization of the manor was directed towards providing labour for the cultivation of that part which the lord kept in his own hands. It is therefore evident that if the lord found it his interest to let portions of the demesne instead of cultivating it through his bailiff or reeve, his need for the services of the villeins would be *pro tanto* diminished, and he would be readier to accept commutation. The letting of the demesne would do more, then, than any other cause to change the relations between the

lord and the villagers. Not, indeed, that it would to anything like the same extent disturb the system of joint agriculture pursued by the villagers. For the demesne, as has been seen, was itself usually partly made up of virgates, *i.e.* of scattered acres in the intermixed fields. The new tenant, if the land he received was made up of such scattered strips, would be bound by the rotation of crops observed by his neighbours; and if there was a co-operative system of ploughing, as is probable, would take his share in it. Moreover the labour obligation of each villein had often been defined as the ploughing, harrowing, and reaping of a certain number of acres. In an age when the tendency towards definition was so strong, it is likely enough that custom had fixed which particular acres of demesne a man was bound to cultivate. And if, as may naturally be supposed, the renting of demesne land often meant only that a man who had previously been bound to cultivate certain acres, the lord taking the produce, now promised to pay a certain fixed amount in return for whatever the produce might chance to be, there would be absolutely no disturbance at all in the actual method of cultivation.

In most cases apparently the bulk, if not the whole, of the demesne was retained in the hands of the lord. But frequently as much as a fourth was let to free tenants—one person occasionally receiving a half virgate or a virgate, though usually the holdings are very small, from four acres to half an acre, and it is sometimes added after the names of the holders that it is "in addition to land" they held otherwise, *i.e.* in the common fields by free or villein tenure.[73] Occasionally, however, the whole demesne was divided in this way; in one instance into thirty holdings each of one *noke* (a quarter of a virgate), with three of two nokes each, and four of only half a noke.[74] And in this and similar cases it

followed, almost of necessity, that all the labour-dues of all the tenants were commuted.[75] Such grants might be either tenancies at will, or might be in perpetual freehold; and tenants in the former position were sometimes able to gain a perpetual holding by promising to pay a higher quit rent.[76]

Thus, then, a body of free tenants had been created in three ways: by the elevation of villeins on the commutation of their services for money payment; by the enclosure and letting out of portions of the waste; and by the letting out of portions of the lord's own demesne.

§ 4. ii. In all the cases previously noticed the commutation of labour-dues for money had been accompanied by a rise from servile to free tenure. But from the beginning of the thirteenth century we notice a much more general and far-reaching change—the commutation of week-work, or even of all labour services, without the tenant being thereby raised to a free tenure. We find in many of the custumals of the thirteenth century that, even where the labour is not generally commuted, each item of it—a day's work of each sort—is precisely valued, at a halfpenny, a penny, or the like.[77] At first, probably, this was in order to assess the fines to be paid by a villein who neglected his due task. But very often the money would be more welcome than the labour; and in *Fleta* the reeve is directed to look carefully after arrears of labour, and to try to get money for them. This would naturally lead to the total money value of all the services being added up, and to commutation being effected by the more prosperous and ambitious villeins. The change can be most clearly traced in the manors belonging to S. Paul's, where, in 1222, the alteration had only recently been made, and the name of the canon who had brought about the commutation when he had "farmed" the manor could still be remembered.[78] In some manors no labour-dues had been commuted; in others,

some had and some had not.[79] There is even an instance where land held "for rent" had been unjustly given to another to hold "for labour."[80] Yet the lords were not equally indifferent with regard to all services, as to whether they received money or labour. The extra labourers needed at the busy seasons could not so easily be obtained for hire; and consequently we find that in most cases the lords retain the precariae and exceptional services long after the week-work has disappeared.[81] The jurors who furnished the evidence upon which the *Domesday of S. Paul's* was drawn up in 1222, marked this by describing some tenants as holding "for both rent and labour."[82]

Twenty years later, on the estates of Worcester Priory, we find that the change has taken place in regard to every tenant, with the same exception as to precariae and other occasional services. The new arrangement is there frequently described as "the new assize," as opposed to "the old assize."[83] But, with noticeable caution, the register contains in all cases a list of the old services as well as of the new payments;[84] and it may be that this practice of preserving a record of the labour-dues—a practice, doubtless, common—was afterwards of some practical importance. As we might expect, the cotters with their small holdings are still in some cases not sufficiently prosperous to commute their services.[85] Commutation was carried out very gradually over the country. In the middle of the thirteenth century it does not seem to have been effected in any case on the estates of Ramsey Abbey; nor was it, apparently, often the practice on the estates of Gloucester Abbey twenty years later, or of Battle Abbey even at the end of the century, though the value of the services is given in money. Yet, even where it had not taken place, we notice a very marked difference of tone. The tenants are said to be bound to *find* a

man, or two men, or a woman, as the case might be,[86] implying that they do not usually perform the service themselves, but are able to hire men to do it for them; and they are frequently registered in the later part of the thirteenth century as *customary* tenants (*consuetudinarii*, *custumarii*) rather than as villeins.

iii. The more prosperous the free tenants and customary tenants became, the more eager they would be to get rid of the obligation of furnishing labour, even if only at certain seasons. This would be especially irksome for the smaller customary tenants and cotters, who might in many cases have to leave their own acres at the time when they were most anxious to attend to them; and the first English writer on agriculture, Walter of Henley, whose *Dite de Hosbondereye* has been assigned to the middle of the thirteenth century, especially urges the bailiff and the lord's reaper to keep careful watch over the customary tenants, to see that they do not shirk their work.[87] There would be a tendency, therefore, for all services to be commuted for money payments, with which the bailiff could hire labourers more easily controlled.

Instances of the commutation of the whole of the services —week-work and boon-work—occur occasionally as early as 1240, in manors where the demesne was wholly left to tenants.[88] The service with which the lord could least easily dispense seems to have been that of carting, and so in one case we find the entry as to the villeins, "Whether they pay rent or no, they shall cart."[89] But with the reign of Edward II. complete commutation became very common.[90]

iv. Now, it is evident that the lord would not have consented, first to partial and then to complete commutation, had he not been able to hire labourers either for regular service during the whole or part of the year, or at specially busy

seasons. These changes, then, imply that a class of *labourers* had come into existence; a class of men, that is to say, who, although they undoubtedly often held pieces of land—even two or three acres,—yet had not enough land to occupy their whole attention, and were partially dependent upon wages. The same conclusion is suggested, even where commutation had not taken place, by the phrase already mentioned, stating the obligation of customary tenants as the "finding" so many labourers for so many days.

But this body of labourers must as yet have been comparatively small. There are several lists extant of the permanent servants on a manor. They seem to have been few in number—a reaper, two or three ploughmen, a carter, a woodward or swineherd, one or two shepherds, one or two oxherds or cowherds, and a dairy woman.[91] Some of these, such as the shepherds and oxherds, were probably descended from the slaves of the demesne;[92] while the *messor*, or reaper, (*i.e.* the superintendent of the reapers), seems to have been an officer little inferior to the reeve, with certain duties in connection with the manor courts, besides the supervision of the ploughing and sowing. It does not appear that commutation had the effect of greatly increasing the number of permanent hired servants on the demesne. Additional labour was hired when it was needed, for threshing and winnowing, for hoeing and mowing;[93] and, later on, in cases where all the occasional services and precariae were commuted, for ploughing also.[94]

It has not hitherto, I believe, been noticed that the appearance, about the middle of the thirteenth century, of bailiffs' account-rolls, containing a list of all the receipts and expences on the demesne,[95] was the result of the changes which substituted money payments for labour. When none but inconsiderable money payments, or no payments at all,

were made by the tenants; when payments in kind were consumed by the lord, his family, and servants; when all the labour needed on the manor was furnished by the tenants; there was no need for anything more than a list of services. But when rents were received from free and customary tenants (whether all their labour or only week-work was commuted); when it was necessary to pay considerable sums in wages to labourers hired in varying numbers and for varying periods; still more when the lords were non-resident and required that the proceeds of each manor should be sent to them in money, not in kind, so that corn and cattle, butter and cheese had to be sold as best the bailiff could,—then a systematic keeping of accounts became necessary.[96] Not that the bailiff himself put them into the shape in which they were forwarded to the lord: this was the work of itinerant "clerks," who were paid for each piece of work.[97] But the change gave him new opportunities for dishonesty; and therefore, almost as soon as such accounts appear at all, we find an enactment for dealing with defalcating bailiffs.[98] But the new system of accounts was part of a wider development, which must be dealt with later.

§ 5. The fundamental characteristic of the manorial group, regarded from the economic point of view, was its *self-sufficiency*, its social *independence*. The introduction of new tenants from outside was indeed always possible, either to take the place of villeins who had died without children, or to occupy portions of the demesne or waste. But it was probably very rare; the same families tilled the village fields from father to son. Each manor had its own law courts for the maintenance of order. Every three weeks the Court Baron was held in the Manor House, attended by all the villagers who cared to come, for the punishment of petty offences, and to witness the transfer of holdings.[99] At longer

intervals came together the Court Leet, if the lord had a grant of criminal jurisdiction, for the punishment of graver crimes;[100] and punishment may be supposed to have exerted all its deterrent influence when thieves were hanged at the places where they had sinned. Then, as now, every village had its church; with this advantage, or disadvantage, whichever it may be reckoned, as compared with modern times, that the priest did not belong to a different social class from his parishioners. Indeed, in perhaps one-half of the villages, he was as poor as most of them: for when the advowson belonged to an ecclesiastical body, the patrons took to themselves the tithes, and appointed a vicar who had often to be contented with the altar-dues for his subsistence,[101] so that he was glad enough to get a few acres and add to his income by joining in the common agriculture.

The village included men who carried on all the occupations and crafts necessary for every-day life. There was always a water or wind mill, which the tenants of the manor were bound to use, paying dues which formed a considerable fraction of the lord's income.[102] Again and again we find the lord's servants seizing the handmills of which the tenants had dared to make use in detriment of his rights.[103] For a long time the lords kept the mills in their own hands, under the care of bailiffs, making what profit they could thereby;[104] but in the twelfth century it began to be the practice to let the mill to one of the villeins, at an annual rent, or *ferm*.[105] Many villages, though not all, had their own blacksmith and carpenter, who probably were at first communal officers, holding land on condition of repairing the ploughs of the demesne and of the villagers;[106] though, in the course of the thirteenth and fourteenth centuries, this service also came to be commuted for money, and the craftsmen received pay for each piece of work. Another village officer, who sometimes

appears as holding land in virtue of his office, was the pounder.[107]

The village "general shop" had not yet come into existence; in many places it did not appear until the present century: partly because many of the wants which it meets were not yet felt, partly because such wants as were felt were supplied either by journeys at long intervals to some distant fair or market, or by the labour of the family itself. The women wove rough woollen and linen cloth for clothing; the men tanned their own leather.

Thus the inhabitants of an average English village went on—year in, year out—with the same customary methods of cultivation, living on what they produced, and scarcely coming in contact with the outside world. The very existence of *towns*, indeed, implied that the purely agricultural districts produced more than they required for their own consumption; and corn and cattle were regularly sent, even to distant markets, by lords of manors and their bailiffs, in increasing quantities as the great lords or corporations came to desire money payments instead of payments in kind.[108] But the other dealings of the villagers with the outside world were very few. First, there was the purchase of *salt*, an absolute necessity in the mediæval world, when people lived on salted meat for five months in the year. The salt most commonly used came from the southern coast, especially the Cinque Ports,[109] where it was made by the evaporation of sea-water. The west of England drew large supplies from the salt-works at Droitwich, belonging to Worcester Priory. There was a large importation also of salt of a better quality from Guienne.[110] Secondly, *iron* was continually needed for the ploughs and other farm implements. It was to be had both of home manufacture, especially from the weald of Sussex, and of foreign importa-

tion, chiefly from Spain;[111] and it was bought at fairs and markets. It was the general practice for the bailiff to make large purchases of iron and keep it in stock, handing over to the blacksmith the necessary quantities as they were needed for the repair of the lord's ploughs.[112] A very dry summer caused much wear and tear of implements, and consequently an increased demand and a higher price; so that the bailiffs' accounts frequently mention the "dearness of iron on account of drought."[113] A further need was felt when, at the end of the thirteenth century, a fresh disease, the scab, appeared among the sheep, and *tar* became of great importance as a remedy. It was produced in Norway, and exported by the Hanse merchants from Bergen to the Norfolk ports. In years of murrain the cost incurred under this head was a considerable item in the bailiff's expenses.[114] Perhaps the only other regular recurring need, which the village could not itself supply, was that of *millstones*. Of these the better qualities came from the neighbourhood of Paris, and were brought to the ports on the eastern and southern coast, whither we often find the bailiff or miller journeying to purchase them.[115] The duty of assisting the bailiff in conveying the millstone from the neighbouring town was sometimes an obligation weighing on all the tenants of a manor, free and villein alike.[116]

Not only was the village group thus self-contained and complete within itself; the sense of unity was so strong that it was able to act as a corporate body. From early times great lords, possessing manors at a distance which they could not easily inspect themselves or by their stewards, had let them for fourteen, twenty-one, or thirty-five years at a *ferm*, or fixed annual payment, to men who would take the place of the lord and try to make a profit.[117] Now, we find many cases, even as early as 1183, in which the

whole body of villeins, the *villata* of particular manors, made contracts with their lords identical with those which an individual *firmar* might have made, promising an annual sum, and taking the management of the land into their own hands.[118] It is even sometimes expressly said that they hold at farm "the *court* (*i.e.* the fines of the court), with the meadows and the heriots (succession dues), and the villenage," *i.e.* the villein services.[119] It will be seen that this is precisely analogous to "the purchase of the *firma burgi*," *i.e.* the commutation of all dues for a fixed annual payment by the town communities, and throws some light on the transference of seigneurial or royal jurisdiction to the town magistrates.

Such, then, were the chief characteristics of the manorial community as a whole,—self-sufficiency and corporate unity. Now let us look at the position of the individual members of the group. Some had risen to the position of free tenants, but the great majority (holding an even larger proportion of the land,—for the free tenancies, as we have seen, were often very small,) had continued to hold by servile tenure, as villeins or customary tenants, even when they had commuted all or most of their services and had greatly gained in comfort and general well-being. Of the position of this great majority the characteristic was *permanence*, with its disadvantages and also with its advantages. Though it is seldom distinctly expressed,[120] there can be no doubt that,—as is implied in the common description of villeins in the law books, "ascriptitii terrae,"—they were bound to the soil; in the sense, at any rate, that the lord would demand a heavy fine before he would give one of them permission to leave the manor.[121] A father might buy permission for his son to become a clerk or monk, and younger sons might go off to the towns to seek their fortunes in one of the craft guilds: but a yardling would not be likely to leave his manor

unless he could get a virgate elsewhere. This he could not gain if he went empty-handed; and that he should go empty-handed was secured by the universal rule of all manors that villeins should not sell ox or horse without license.[122]

On the other hand, the villeins had permanence of tenure, and their holdings usually passed from father to son: it would appear, also, that they were often permitted to transfer their holdings to other persons on paying a fine to the lord.[123] The legal doctrine, indeed, from the time of Glanvill to that of Edward IV., was that the villein could have absolutely no property at all, and that the king's courts would not protect him against any arbitrary injustice on the part of his lord. And we do occasionally come across cases of violent dispossession. But it would seldom be to a lord's interest to lessen the working outfit of his estate by getting rid of a tenant; and custom constantly tended to become law. Yet the legal claims of the lords were never definitely abandoned; and their survival down to the fifteenth century would help to explain some of the obscurer features of the period of Enclosures.

The collision between the legal theory and the plain matter of fact that, until the fifteenth century, the villeins were regarded as having a customary hereditary right to their holdings, has created so many difficulties, that it is worth while telling at length a case which has only recently been published, and which occurred in 1280.[124] A quarrel had arisen between the Abbot of Burton and his tenants on a manor called Mickleover, in Derbyshire, concerning certain services, to escape which the tenants claimed that they were on ancient demesne of the crown. This was disproved by appeal to *Domesday*, and the villeins were ordered to pay the costs of the action "on account of their false claim." Thereupon the abbot, to show that he was not to be trifled with, resorted to extreme measures and sent a large

body of servants, commanded by six monks and five knights, who drove off from the village 27 boars, 140 oxen, 50 cows and heifers, 506 sheep, and 77 pigs—doubtless all the cattle the tenants possessed. They appealed to the king, and Edward I., ready to seize every opportunity for limiting baronial power, issued a writ ordering that the cattle should be restored. Nothing daunted, the abbot ejected ten of the villeins from their holdings, though he permitted their wives and children to remain; and then, as there seemed some likelihood that the villeins would bring an action of *novel disseisin*, which would raise the whole question of their status, and it was technically necessary for this that the ejectment should be complete, he proceeded to turn out the wives and children also. Such an action, however, the villeins did not bring: they preferred to follow the king about for several days, and get another writ ordering the sheriff to see that the cattle were restored. But the sheriff, though energetic enough to make the monks complain of his malevolence, had no force to carry out the writ; some of the bailiffs of the manors to which the cattle had been sent obeyed his summons, while others flatly refused. The villeins got a third writ; but it was useless,—their cattle were still in the abbot's hands, and they felt themselves beaten. Some of them came to the abbot's court and craved forgiveness; they were made to appear at the county court, and there solemnly acknowledge that they were "serfs at the will of their lord." But others would not yield, and brought an action for theft; the abbot replied that what he had taken was his own, for being villeins they possessed nothing but their own bodies (*extra ventrem*). They, on the contrary, claimed to be freemen, and demanded a jury. After this the proceedings are difficult to follow; apparently no inquest by jury ever really took place as to whether they were free or no. Gradually they all submitted,

and acknowledged that they held at the will of the abbot. Those who came readily were replaced in their holdings, their cattle restored, and only a small fine exacted. But two were obstinate to the last, and would not yield till they had been carried off to Burton and put in the stocks. A few hours in the stocks so broke their spirit, that next day they came and, as a sign of humility, voluntarily submitted to be put in the stocks again. And then they were pardoned, but made to pay a heavier fine than their neighbours,—to wit, half of all the corn then growing on their land.

It is clear, in this instance, that the abbot, though ready to use a legal doctrine to overawe the villeins, did not intend to dispossess them, and did not dispossess even the ring-leaders of the opposition. And when, in the fifteenth century, the profits of sheep-farming did induce lords of manors here and there arbitrarily to evict customary tenants, it was laid down by the chief justice (in 7 Ed. IV.) that "the tenant by the custom is as well inheritor to have his land according to the custom as he which hath a freehold."[125] The yardling and the cotter were thus tied to the soil, but the soil was also tied to them. No very great accession of wealth was possible to them, but, on the other hand, they always had land upon which they could live,—and live, except in very occasional seasons of famine, in rude plenty.[126]

It is instructive to compare the village, as we have seen it, with the village of to-day.

i. In one respect there might seem to be a close resemblance. Then, as usually now, the village was made up of one street, with a row of houses on each side. But the inhabitants of the village street now are the labourers, the one or two village artisans,—such as a tailor, blacksmith, saddler, cobbler,—and one or two small shopkeepers. The farmers live in separate homesteads among the fields they rent, and not in

the village street. Then, all the cultivators of the soil lived side by side.

ii. Secondly, notice the difference as to the agricultural operations themselves. Now each farmer follows his own judgment in what he does. He sows each field with what he thinks fit, and when he sees fit, and chooses his own time for each of the agricultural operations. But the peasant-farmer of the period we have been considering, and for long afterwards, was bound to take his share in a common system of cultivation, in which the time at which everything should be done and the way in which everything should be done were regulated by custom enforced by the manor courts.

iii. A further difference is seen in the relations of lord and tenant as to the cultivation. Nowadays, either the landlord does not himself farm any land in the parish, or, if he does, his management of it is as independent of the cultivation of any other land by any tenants he may have as that of his tenants is of his own farming. But, then, almost all the labour upon the demesne was furnished by the villein tenants, who contributed ploughs, oxen, and men for the bailiff's disposal. Long after commutation of services had largely taken place, the lords retained the right to assistance in all the more important processes,—ploughing, reaping, threshing, carting. And the demesne itself was often made up in great part of virgates in the common fields, so that the lord himself was bound to submit, so far as these were concerned, to the same rigid system of joint cultivation as was maintained by the rest of the members of the village community.

iv. Compare, finally, the classes in a manor with those in a village to-day. In a modern parish there will usually be a squire, some three or four farmers,—all of them large farmers when compared with peasant holders,—and beneath them a

comparatively large number of agricultural labourers. Even when the agricultural labourer has a good garden or an allotment, there is still a social gap between him and the farmer of a couple of hundred acres. But in the mediæval manor, as we have seen, much the greater part of the land was cultivated by small holders. Between the lord of the manor and the villein tenants there was, indeed, a great gulf fixed,—a gulf wider far than that between the farmer and the squire of to-day. And it was probably a hard matter for the cotter to rise to be a yardling. But, putting the lord on one side, there was nothing like that social separation between the various classes of actual cultivators that there is to-day. The yardling and cotter worked in the same way; their manner of life was the same; and in the system of joint cultivation and the life of the village street they were made to feel their common interests.

It may be well to notice the non-existence in the village group of certain elements which modern abstract Economics is apt to take for granted. *Individual liberty*, in the sense in which we understand it, did not exist; consequently, there could be no such complete *competition* as we are wont to postulate. The payments made by the villeins are not *rents* in the abstract economist's sense: for the economist assumes competition,—assumes that landlord and farmer are guided only by commercial principles; that there is an average rate of profit, which the farmer knows; that he will not take less and cannot get more.[127] However the labour services came to be fixed, they were fixed in the eleventh century; they remained unchanged till they were commuted for money; and, once commuted, no increase took place in the money-rent. The chief thought of lord and tenant was, not what the tenant could possibly afford, but what was customary. And, finally, there was as yet no *capital* in the modern

sense. Of course there was capital in the sense in which the word is *defined* by the orthodox economists—"wealth appropriated to reproductive employment;" for the villeins had ploughs, harrows, oxen, horses. But this is one of the most unreal of economic definitions. As has been well said, "by capital we habitually mean more than this; we mean a store of wealth which can be directed into new and more profitable channels as occasion arises."[128] In this sense the villeins certainly had no capital, and it was only gradually, as commutation began, that the landlord was getting to have something that he could "capitalize," *i.e.* that he could save with the intention of gaining a profit from it by-and-by.[129]

§ 6. Little as the mere substitution of money payments for labour dues may seem to have affected the relations of classes, it marked the beginning of a change of supreme importance. The German economist Hildebrand was the first to point out that whatever difference there may have been between the economic development of the different European nations, there is one characteristic common to all, the transition, namely, from *payment in kind* to *payment in money*. Such a way of phrasing it, indeed, but very inadequately represents what Hildebrand meant by the transition from *Natural-wirthschaft* to *Geld-wirthschaft*,—the development of a society in which exchange, and the distribution of wealth generally, are effected by means of, or expressed in terms of a metallic currency, from one in which land was given for service, service given for land, goods exchanged for goods, without the intervention of a currency at all.[130] This change is what we see in all directions during these three centuries.

In examining the character of the village group, we saw that in the eleventh century, and in most cases long afterwards, the lord and his family lived upon the produce of his

demesne, cultivated by the customary labour services of his tenants, and the tenants upon the produce of the lands which they held in return for such services; and we have noticed how very gradually these services were exchanged for money, so that the lord should receive a rent with which he might hire wage-labourers. What is true of the several manorial groups was true also of the relations between the tenants and the seigneurial household in those cases where a lord held a great number of manors. The lords received from their bailiffs, not sums of money, but certain amounts of agricultural produce, for the maintenance of their households.

No detailed accounts are extant of the management of great lay estates, but several such exist for ecclesiastical possessions, which were managed precisely in the same way; with this difference only, that the natural conservatism of corporate bodies caused old methods of management to be retained long after they had been abandoned elsewhere.

The domestic economy of the Chapter of S. Paul's is set forth at length in certain documents of the later part of the thirteenth century, which have been sympathetically commented upon by a modern member of the same Chapter, Archdeacon Hale.[121] It owned thirteen manors, each of which was in the hands of a *firmarius*, who held a lease of it, usually for life. He occupied, in regard to the manor, exactly the position of a lord, holding the courts, supervising the bailiff, and making agreements with the tenants. He was bound to make certain payments in kind and in money at regular intervals to the Chapter: but any surplus produce or rent he had the right of retaining; and so considerable a source of profit was this, that the office of firmar was monopolized by the residentiary canons, who, upon any vacancy, had the right in order of seniority of taking up the lease. The

unit of payment was a *firma*, which, in the case of S. Paul's, besides its ordinary meaning of a definite or regular payment instead of arbitrary or fluctuating payments, had the further meaning of *the food for a single week.* It consisted of sixteen quarters of wheat, sixteen quarters of oats, and three quarters of barley. The thirteen manors furnished in the course of the year forty-five such "firms,"—of which ten came from one manor, six from another, four each from two, three each from four, two each from four, and one from the remaining manor; the total quantity in the year being seven hundred and twenty quarters of wheat, seven hundred and twenty of oats, and a hundred and thirty-five of barley.

Adjoining the cathedral were a horse-mill, a bakehouse, and a brewery, where the grain was ground, bread baked five times a fortnight, and beer brewed twice a week, under the supervision of a warden of the brewhouse, himself usually a canon. He was bound to provide each of the thirty canons with three loaves a day, and thirty gallons of beer a week;—doubtless they had separate households, and the greater part of the beer and bread went to their servants; to five other persons went two loaves a day and six gallons of inferior beer a week; to the rest of the minor canons one loaf and three gallons, and a certain number of loaves and gallons to the other clergy and servants; making in all some 40,400 loaves a year, and 67,800 gallons of beer.

This primitive system continued far into the fourteenth century. But from a date certainly as early as the middle of the twelfth century, certain money payments had been made. Of these the unit was a *dizena*, each dizena being three marks and sevenpence, thus allotted,—two marks and a half for the weekly wages of the cathedral vicars, minor canons, sacristan, and other officials, half a mark to purchase wood for the brewery and bakehouse, and sevenpence for

alms. Thus money payments for both rent and wages had already commenced. Moreover, as we cannot suppose that the canons lived exclusively on bread and beer, it is clear that they must have purchased meat, as well as cloth for their robes, in the London market, with the money which they received as tithes and offerings. Still, the larger part of the food of the cathedral body was for several centuries derived from the manors of which it was lord; how close the dependence was is illustrated by the statute of Ralph de Diceto at the end of the twelfth century, that in case of dearth or pestilence upon the estates, the non-resident members of the body should have one loaf and one gallon of beer less a day. Early in the fifteenth century, we find the system breaking down; money payments to the canons are substituted for the supply of beer, the supply of bread falls into arrears, and finally considerable money rents took the place of the firms.

The transition from payments in kind to payments in money, which, on the manors of the S. Paul's Chapter, and doubtless on those of many other ecclesiastical corporations, was delayed until the fifteenth century, had upon the royal demesne taken place early in the twelfth. It is described by the author of the *Dialogus de Scaccario*, writing in 1178, in language which deserves quotation. "In the early state of the kingdom after the Conquest, the kings used to receive from their manors certain quantities, not of gold or silver, but of provisions, from which were supplied the daily necessities of the royal household. Those who were charged with the matter knew what quantity each manor was accustomed to supply. Coined money, however, was provided for the pay of soldiers and other needs, from the pleas of the crown, and from those towns and fortified places where agriculture was not practised. This system

lasted during the whole reign of William I., down, indeed, to the days of Henry I.; I myself have met men who had seen provisions brought to the court at appointed times from the manors. The royal officials knew precisely from which counties wheat was owing, from which various kinds of flesh, or provender for horses, or other necessaries. And when these had been paid in the proper quantity, the officials reckoned it all up with the sheriff at fixed rates in money,—thus, for a measure of wheat that would make bread for a hundred men, a shilling; for the carcase of a fatted ox, a shilling; for a ram or an ewe, fourpence; the provender for twenty horses, fourpence likewise. But as time went on, and Henry was obliged to cross the sea to suppress distant insurrections, he had need of coined money to meet these expenses. About the same time, crowds of complaining villeins began to flock to the court, or, what distressed him more, met him as he journeyed, and held up their ploughshares to show that agriculture was failing; for they suffered many hardships from this carrying of provisions away from their own homes. Accordingly the king inclined his ear to their complaints, and, after taking counsel with the magnates, appointed the best men he could find for the work, and sent them all over the kingdom to visit every manor, and there estimate in money the value of the payments in kind; and they made the sheriff of each county responsible at the Exchequer for the total amount due from all the manors in the county." [182]

There are many points of interest in this account; such as the primitive character of those conditions in which the natural unit of reckoning was *food for a hundred men*, or *provender for twenty horses;* or the description of the king's need for money as chiefly due to the employment of paid troops. But what is especially important to observe is that

it shows that a currency can be used as *a common measure of value*, long before it is actually employed in everyday transactions as *a medium of exchange.*

These two examples are sufficient to illustrate the character of the change. But it is to be noticed that it was not confined to the relations between individuals: so intimately was the system of government bound up with the condition of society that the same transition was sure also to take place in the relations between the sovereign and his subjects. Thus in the reign of Ethelred is found the beginning of regular taxation in the shape of the *Danegeld;* by the time of Canute, the *heriot*, originally a gift of horses and armour, had come to be a money payment; Henry II. obtained the payment called *scutage*, in lieu of military service, from the great body of the knights; and under Edward I. regular money payments by the merchants finally took the place of gifts or seizures of wares.

Such a change implies two conditions: first, the existence of an adequate currency; and secondly, the existence of markets, where men might be confident of obtaining money for their wares, or of obtaining wares for their money. To take the first of these. There was no considerable coinage in England until the second half of the eighth century under Offa.[133] With Athelstan began the long series of laws for the regulation of the coinage; he ordained that only one kind of money should be used throughout the realm, and that none should coin save in a town: from this time begins the practice of stamping upon the coins the name of the town where they were struck.[134] For centuries the local authorities in centres of trade were allowed to have their own moneyers: there were several in every considerable town; and the increase in the bulk of the currency may be roughly estimated by the number of names of towns found on the coins. Under Canute

the mints were more numerous than ever before.[135] Under Henry I. there were ninety-four moneyers, all of them punished by mutilation in 1125 for debasing the currency.[136] To remedy the evils of clipping, there were new coinages in 1125, 1158, 1180, 1248, and 1300.[137] In 1220, *round* halfpennies and farthings were for the first time issued: that the practice of breaking the coin into halves and quarters should have remained so late as this proves how little retail trade there could have been.[138] On the other hand, the ill success of Henry III. in his attempt, in 1257, to imitate his contemporaries in France and Italy in issuing a gold currency, proves how far England was behind other countries in commercial development;[139] for with the increase of trade, coins of higher denominations become more and more convenient. The remonstrances of the city of London forced him to issue a proclamation that no one should be compelled to accept the new gold pennies. The coinage was small, and soon discontinued; and no similar attempt was made until 1343, when Edward procured the assistance of certain Florentine moneyers in the issue of his gold nobles.[140] During the intervening century, as we shall see in the next chapter, a considerable commerce had grown up; so that the king was now able to ordain that no one should refuse to take his nobles in payment of debts of twenty shillings or above. It was with Flanders that this trade was most considerable, and therefore it was that in 1345–46 Edward negotiated with the magistrates of the Flemish towns for the establishment of a uniform coinage to be current in both countries.[141]

How the second condition was fulfilled, and markets grew up, will be shown in the next chapter.

NOTES.

1. Seebohm, 1-4, 7-13, 21-29.

2. Maine, *Village Communities*, 85-87; but it is incorrect to speak of "common fields . . . divided into *three* long strips." There were *three great fields*, or three large ones and three smaller ones, as in Hitchen (see the map at the beginning of Seebohm, and p. 450); and each field was divided into several score of acre strips.

3. *Dominium*, or *dominicum*, and *villenagium* are the usual terms. *Inland* is more rare: it appears as early as 956, Seeb. 149; occurs sometimes in *Domesday*, *e.g.* in Yorkshire, three cases on p. 317, col. 1; is the usual term for the demesne in the *Burton Chartulary*, *e.g.* pp. 18, 19, 20; and occurs as late as 1240, "terrae de dominico quas vocant Inlandes," *Domesday of S. Paul's*, lxxii.

4. In a map, dated 1624, in the possession of Lincoln College, Oxford, representing the manor of Pollicot, co. Bucks, the college, which has stepped into the position of lord of the manor, is marked as holding alternate strips in the common fields. Cf. Seebohm, 38.

5. Seebohm, 61.

6. *Cust. Battle*, xiii.

7. Dugdale, writing of Stoneleigh in Warwickshire, describes each tenant as holding one yardland, and "paying 30*d.*, viz. 1*d.* an acre, in regard every yardland contained 30 acres and no more;" *Antiq. of Warwicksh.*, 254, qu. Gomme, *Primitive Folk-Moots*, 128. For virgates consisting of 16 acres, see *Ramsay Chart.*, 284; of 18 acres, *ib.* 295; see also *Worcester Reg.*, lxxv. lxxx.

8. The persons to whom the term *bordarii* was applied seem usually to have been in a somewhat better position than the *cotseti* and *cotmanni*. But the terms are used interchangeably: *e.g.* the *Liber Niger of Peterborough*, 161, where, after dividing the tenants on a certain manor into *pleni villani*, *dimidii villani* and *cotsetes*, the services of the full-villeins and half-villeins are given and then those of the *bordarii*. In *Domesday*, according to the lists in Ellis, *Introd. to Domesday* (1833), ii. 511, there are recorded 108,456 villani and dimidii villani, 82,624 bordarii, and only 6819 cotarii, coteri, and coscets; yet the division of the servile population in the so-called *Leges Henrici primi* is into "villani, *vel cotseti*, vel ferdingi;" Stubbs, *Sel. Charters*, 106, xxix.

9. Besides the above examples of *dimidii villani*, cf. "Isti subscripti vocantur Halferdlings," *Cust. Battle*, 77.

10. Of eight manors in Northamptonshire belonging in 1086 to the

monastery of Peterborough, in four there was only one slave, in one an *ancilla*, in one three slaves, and in two four; *Domesday*, i. 221, 221*b*. In the western counties, indeed, there was a much larger proportion; but to this reference will be made later.

11. The *Rectitudines* give first the law of the *thegn*, then the duty of the *geneat*,—a term which is best explained as including all the servile cultivators,—and then the duty of the *cotsetla* and the duty of the *gebur*, which may be regarded as "subsections" of the clause concerning the *geneat*. Seebohm, 129, seq. Compare the services of the *gebur*,—"in some places heavy, in others lighter or moderate. On some land he must work at week-work two days at such work as he is required through the year every week, and at harvest three days for week-work, and from Candlemas to Easter three,"—with such entries as, "quaeque virga operatur iii diebus in ebdomada," in *Chron. Petrob.*, 158.

12. "On sumen lande is paet he sceal wyrcan to *wic-weorce*, ii dagas;" in the Latin version, "operatur *opus septimane;*" *Rectitudines*, 375, Schmid. Three centuries later occurs the phrase "*opera diurna;*" *Cust. Battle*, viii.

13. *E.g.* "Omnes firmarii fac' iiii p'cao' (*i.e.* precationes) in autumpn' cu' tota familia ex^ta husewiva;" *Boldon Book*, in *Domesday*, iv. 570, 571. Cf. the custom of Bright Walton, 12 Ed. I.: "Nec licebit alicui metere in eadem villa eodem die quo dominus habet magnam precariam nisi in campo domini;" *Cust. Battle*, 59; and an instance in the Hundred Rolls, qu. Seebohm, 43.

14. In drawing this distinction between *week-work* and *boon-days* I am following Seebohm, 41, 78, and it seems to be justified by such phrases as "facit *aruras*, *lovebones*, averagia" (carting), in *Chart. Ramsey*, 314. But in some cases the term *precariae*, or *precationes*, is given to only one or two additional days in the year, as distinguished even from the heavier services at harvesting.

15. *Cust. Battle*, xxxix. There is a charming piece of Latinity in another case, "Percipiet per diem in dicto prato ii panes nigros et dimidium, potagium, et potum, (i. galonem communiter) et medietatem unius ferculi et caseum," *ib.*, 5. Sometimes the days were distinguished according to whether meat was given or only ale, as *mete-bedrip* and *ale-bedrip*. Hale, *Domesday of S. Paul's*, cxxxv. In one case, *hunger-bedripe*, a day on which no food was given, is distinguished from lovebone; "metet etiam unum sellionem ad hunger-bedripe, et unum sellionem pro lovebone;" *Chartulary of Ramsey*, i. 470.

16. This is abundantly illustrated in the *Liber Niger* and the *Boldon Book*, from which translations are given in Seebohm, 73, 68.

17. The latter is the later plan; and it is illustrated, *e.g.* in the *Domesday of S. Paul's*, 3, where, of those who hold *per vilenagium*, Robert the smith is mentioned first as holding half a virgate, and his services are recorded, and then the names are registered of five other persons holding half virgates, with the addition in each case *per idem servicium*. In the *Chartulary of Ramsey* the model list of services often occupies three pages, *e.g.* 298–301, and to the following names is added, "et facit in omnibus sicut dictus N." In the *Chartulary of Gloucester* the phrase is *eadem faciet*, 29, 38.

18. The sections on the bailiff and reeve will be found printed in the Appendix to Cunningham, *Growth of Eng. Industry and Commerce* (1 ed.)

19. In a manor belonging to S. Paul's there is an instance in which it is not clear whether "forman" is the name of an office or a surname; probably it was passing from one to the other: "Johannes forman v. acras pro i. operatione qualibet septimana et averat Lond' ad cibum domini quum Dominus jubet. . . . et furem captum in curia custodiet et judicatum suspendet;" *Domesday of S. Paul's*, 38.

20. See the account in Hale's Introduction to *Domesday of S. Paul's*, xxxvi.

21. *Russia*, ch. viii.

22. "From the survey of 1279 (not yet printed) we learn that certain of the tenants (on the manors of S. Paul's) were compellable to accept this office: that it was an annual one; and that whilst performing its duties the tenant was exonerated from other services;" Hale, *Introduction to S. Paul's D.*, xxxvi. For other examples of compulsory reevedom, see *Custumal of Bleadon*, 209; *Cust. of Battle*, 66 ("Memorandum quod dominus potest pro voluntate sua quem voluerit de custumariis eligere in Prepositum et qui tenet integram virgatam terrae relaxabitur ei de redditu suo quinque solidorum xld.); and *Castle Combe*, 146, where, in a Rental of 1340, after the names of four of the tenants each holding a virgate, and after that of a miller, is added, "Et erit prepositus," while after the name of another miller is, "Et non debet esse prepositus;" and of twelve holders of virgates "in bondagio" it is said, "Et erit prepositus vel messor si domino placuerit et tunc erit quietus de v. solidis et de omnibus operibus suis in autumno."

23. For exemption from services, see previous note. For land attached to the office, see *Cust. of Bleadon:* "Habebit unum ferdellum terrae sine messuagio quod vocatur *revelond*."

24. Thus the *Compotus* of 1316, in Rogers, *Hist. of Agric.*, ii. 617, is presented by "Robertus Oldman *prepositus* de Cuxham;" and the same documents give examples of election of reeve in 1286 ("Clemenes

Henewy electus ad officium praepositi de Stockton *de communi assensu totius villae*"), 609, and in 1331 (*per totum homagium electus*), 613; and of his being fined or removed for unsatisfactory accounts ("pro pluribus celamentis et transgressionibus in computo suo inventis," 610, and "amotus est super hunc compotum," 613).

25. See Hanssen, as quoted in Seebohm, 372, 373.

26. *Ib.*, 418.

27. *Ib.*, 422–423.

28. See Seebohm, 117–125.

29. *Ib.*, 61, 62.

30. *Ib.*, 24–26, 113.

31. The percentages I have taken from Mr. Seebohm's maps, p. 86. The total recorded population, as given by Ellis, *Introd. to Domesday*, ii. 511, is 283,242. Of these 108,407 are registered as *villani*, 49 as *dimidii villani*; there are 82,119 *bordarii*, 490 *bordarii pauperes*, 15 *dimidii bordarii*, 5054 *cotarii*, 16 *coteri* (merely a different spelling), 1749 *coscets*. The number of *servi* is 25,156.

32. This is clearly the explanation of the "copyholds of imperfect tenure," still frequently found in the western counties. Pollock, *Land Laws*, 203.

33. Ellis gives 10,097 *liberi homines*, of whom Suffolk has 5344; 2041 *liberi homines commendati*, of whom Suffolk has 1895; and 23,072 *sochemanni*.

34. For examples of *socmen* with considerable estates, see *Domesday*, i. 314*b* (Yorks.); i. 336*b* (Stamford); ii. 182 (Norfolk). For a *freeman* in a similar position, ii. 345 (Suffolk).

35. There is an instance to the contrary in the *Liber Niger* (*Chron. Petrob.*, 164: "Et ibi sunt xxix. sochemanni et operantur i die in ebdomada per totum annum."

36. *E.g.* "In Estona ix. sochemanni . . . et serviunt cum militibus quantum illis jure contingit;" *Chr. Pet.*, 172: on p. 173 the phrase "serviunt cum militibus" occurs thrice of socmen, and twice "cum militibus" only. On p. 169 there is a curious case of fractional responsibility: "Ricardus Enganie ii. hidae in Hamtonascira et servit pro i. milite. Sed socemanni faciunt quartam partem militis, et ipse iii. partes unius militis."

37. Thus the *Liber Niger*, *Chr. Petr.*, 158, records in one village only 8 villeins, but 44 socmen: "Et omnes isti sochemanni habent viii. carrucas, et inde arant iii. vicibus per annum. Et quisquis eorum metit in Augusto de blado domini dimidiam acram et ii. vicibus in Augusto precationem. Et quisquis herciat i. die ad tremeis (in spring)."

38. Thus, in *Domesday*, ii. 317 (Suffolk): "Huic manerio pertinent v. sochemanni de LVI. acris. . . . Hi v. non potuerunt vendere terram suam nec dare alicui;" and *ib.*, 324, "In eadem i. sochemannus cum XXX. acris et non potuit vendere nec dare."

39. Thus, in *Domesday*, ii. 66 (Essex): "Isti sochemanni, sic comitatus testatur, non poterant removere ab illo manerio."

40. Maine speaks of Bracton as "putting off on his countrymen as a compendium of pure English law a treatise of which the entire form and a third of the contents were directly borrowed from the *Corpus Juris;*" *Ancient Law*, 82.

41. Thus, in a Wiltshire manor belonging to Battle Abbey, there were, in the reign of Ed. I., Liberi tenentes, Majores Erdlinges scilicet Virgarii, Minores Erdlinges, Halferdlinges et majores Cotarii, Minores Cottarii, and Coteriae, *Cust. Battle*, 72–81; and an Inquisition of 19 Ed. I. presents the following gradation of ranks,—Liberi tenentes per cartam, Liberi tenentes qui vocantur fresokemen, Sokemanni qui vocantur molmen, Custumarii qui vocantur werkmen, Consuetudinarii tenentes 4 acras terrae, et Consuetudinarii tenentes 2 acras terrae; Vinogradoff in *Engl. Hist. Rev.*, i. 757. On the manors of Gloucester monastery were Liberi tenentes, Consuetudinarii, Lundinarii, Tenentes Honilond, Ferendelli, Tenentes Penilond *ad vitam* et *ad voluntatem* domini, Medii, Cotlandarii (and Cotarii), Tenentes forlonde, Akermanni; *Historia Glouc.*, iii. cv, 121–149; but some of these names are probably equivalents.

42. Thus in certain Articles of Visitation of 1320 occurs the clause, "Item, an aliqua terra, quondam custumaria, teneatur libere a serviciis et consuetudinibus quas facere consueverunt: quae, per quem, qualiter, et a quo tempore; et qualiter nunc teneatur, per quae servicia;" *Domesday of S. Paul's*, 157*.

43. The fine for giving a daughter in marriage was known as *mercheta*, *maritagium*, and *culage*. That it was regarded as a distinguishing mark of servile tenure is shown by the entry in the *Hundred Rolls* for Bedfordshire (ii. 329): "Sunt illi villani ita servi quod non possunt maritare filias nisi ad voluntatem domini;" Seebohm, 41 and n. 1. Entry of payment frequently occurs in the manor rolls; examples are given in Rogers, *Hist. of Agric.*, ii. 608, seq.

44. A son would be much less likely to leave the manor owing to marriage than a daughter, and this may be the reason why the fine was only exacted in the latter case. In later times the fine seems to have been heavier when the woman was leaving the manor, than when she was marrying an inhabitant of the manor. Thus, in one of the cases given by Mr. Rogers, a woman pays a shilling in 1308, "pro se

maritanda *infra manerium*," while another pays two shillings in 1318, "ut possit maritari *extra libertatem* domus;" *Hist. of Agric.*, ii. 611. Cf. *Articles of Visitation*, 1320: "Item, an nativi custumarii maritaverint filias suas *intra manerium vel extra*, vel vendiderint vitulum pullanum vel bovem de propria nutritura sine licencia domini, vel arbores in haiciis suis extirpaverint vel succiderint sine licencia;" *D. of S. P.*, 157*. So also on the estates of the Norman abbey of Mont S. Michel, the fine for "licentia maritandi" was only "si maritaverit filiam suam *extra terram* S. Michaelis;" Délisle, 679.

45. The case recorded in the *Placitorum Abbreviatio* (ed. 1811), p. 90, is important enough to be quoted in full: "Assisa venit et recognovit si Cicilia etc. injuste etc. disseisiavit Baldwinum juvenem, de libero tenemento suo. Jurati dicunt quod ipsi certi sunt quod predictus Baldwinus fuit seisitus de i. *virgata* terrae . . . et quod ipsi eum disseisiatum, sed nesciunt si sit liberum tenementum vel non. Quia si ipse habuerit carucam ipse arabit domino suo tres acras ad cibum suum proprium, ita tamen quod in estate dum arat habeat herbagium ad boves suos tantummodo dum arat. Dicunt etiam quod ipse et alii debent falcare tres turnos et introducent fenum in grangiam domini sui, et habuerunt pro hoc meliorem multonem quem eligere possint in falda domini sui. Debent etiam in autumno facere precarias ad cibum domini et reddere ad Pascha de qualibet acra quam tenent unum ovum. Dicunt etiam quod *nunquam audiverunt dici de filiabus eorum quod finem facerent cum domino de eis maritandis, neque de bobus suis vendendis.* Dicunt etiam quod antiquitus in septennio solebat dominus eorum petere auxilium, et ei auxiliebantur. Consideratum est quod *per servicia illa non est tenementum illud villanum.* Et ideo ipse habeat seisinam."

46. Thus in the *Chartulary of Gloucester*, *Hist.*, iii. 134, among four persons in a manor who "tenent per cartam in perpetuum" it is specially noticed of one holding half a virgate of land "non potest vendere equum nec bovem sine licentia domini, et si vendiderit dabit tonnutum (tax) pro equo quatuor denarios: et non potest maritare filiam suam nec filium alienare."

47. Vinogradoff in *Engl. Hist. Rev.*, i. 736, 737.

48. See note 46, and cf. the quotation from the *Register of S. Edmundsbury* of 18 Ed. I., where, among the arguments that certain *molmen* were "servilis conditiones" in spite of the fact that the abbots "relaxarunt eis servicia majora et consuetudines pro certa pecunia," it is alleged that they do not hold "per cartam sed per virgam in curia;" qu. *Hist. Rev.*, i. 736.

49. This is clear from the article in the *Extenta Manerii* (*Statutes of the Realm*, i. 242): "De libere tenentibus . . . inquirendum est . . . qui

tenent *per cartam* et qui non." There is a noteworthy example in the Ibstone rental of 1298, printed in Rogers, *Hist. of Agric.*, ii. 656, where among thirty-one free tenancies of all sizes from a virgate downward, only eight are said to be held "per cartam," while four are expressly said to be held "ad terminum vitae," "ad voluntatem domini," and one "sine scripto."

50. According to Ellis, the number of these recorded is 159, of whom 54 are in Yorkshire, 42 in Derbyshire, 36 in Essex, more than 14 in Lincolnshire, 11 in Dorsetshire, 2 in Nottinghamshire. In some cases, like the more important socmen and liberi homines already referred to, they have villeins holding of them, *e.g.* "Ibi ii. censores habent ix. villanos cum iii. carrucis;" *Domesday*, i. 331 (Yorkshire). For the continental use of the word, see Ducange, s.vv. *Censarii* (defined by him as "villani censui obnoxii, qui censum praestant"), and *Censualis*.

51. Of a total of 858 *coliberti* in *Domesday*, 260 are in Wilts, 216 in Somerset, 103 in Gloucestershire, 98 in Hampshire, 49 in Cornwall, and the rest scattered over the other western counties. Ducange elaborately discusses *Colliberti* with the conclusion that they occupied a middle position between what he calls "servi" and "liberi," and paid *census*.

52. *Domesday*, ii. 1, "In hoc manerio erat tunc temporis quidam liber homo de dimidia hida, qui modo effectus est unus de villanis;" cf. *ib.*, 350*b*, "Huic manerio addidit normannus filius tanredi iii. liberos homines regi commendatos."

53. *Rotuli Curiae Regis.*, i. 357. The jurors declare in a case tried at the beginning of the reign of John, "Wilhelmus et antecessores ejus tenuerunt illam terram libere usque x. annos obitum suum, et tunc *intravit in consuetudinem* nesciunt utrum vi vel aliter."

54. Besides the instances of the Burton and S. Paul's estates commented on later, it may be noticed that in twelve manors belonging to the Priory of S. Mary of Worcester there are recorded in *Domesday* only three liberi homines, and apparently no socmen at all, while in 1240 there were fifty-five liberi and eighty-five socmen; Hale, *Introd. to Register of Worc.*, vi., xvii. Archdeacon Hale indeed here, as in his other writings, argues that the omission of free tenants from *Domesday* does not prove their non-existence. But he gives no sufficient proof of the proposition, which would, indeed, throw early social history into inextricable confusion: and,—to mention no other objection,—it is inconsistent with the statement of the English chronicle that "not a yard-land" was omitted from the survey.

55. *Malmen*, *molmen*, and *molland* appear in many parts of England, and their position has recently been discussed in the *Engl. Hist. Rev.*;

see especially Vinogradoff in i. 734. But it has not there been noticed that "*mails* and duties" was, until perhaps the eighteenth century, the common term for rent in Scotland; see Stair, *Institutions*, 326, 376. Scott frequently uses "mail," "mail-duties," and "mailing," *e.g.* where he makes the dying Dumbiedikes bid his son to "let the creatures stay at a moderate mailing;" *Heart of Midlothian*, ch. vii. The word "mailen" was often used for a farm; as in the lines of Burns beginning, *Last May a braw lover.*

56. One of the passages in which the term occurs is also valuable as describing the division among the sons of a previous tenant: "Terra quae fuit Ormi habent iii. filii ejus hoc modo. Uivetus habet ii. bovatas pro ii. solidis et debet facere *consuetudines* (occasional labour services) *ceterorum censariorum.* Raven et Leysingus habent ceteram terram, id est vi. bovates de Warlanda et iiii. de Inlanda pro viii. solidis quoque anno et debet ire ad Offelawe hundred et praeter hoc facere omnia *sicut alii censarii;*" *Collections for Hist. Staffordsh.*, v. 19. The meaning of *warland*, here frequently used, is not clear. It seems to be frequently opposed to *inland* or demesne, *e.g.* "In terra warlanda sunt xxxii. bovatae *ad opus*, et inter warlanda et inlanda xxxii. ad malam, id est totum lxiiii. bovatae terrae," where it appears to be the same as land in villenage. Possibly it was land specially subject to some military burden or tax for military purpose; cf. "Liberi ab omnibus armorum oneribus, quod *warscot* Anglici dicunt," in the apocryphal *Constitutions of the Forest* of Canute (Cn. iii. 9, Schmid, 319), and in this case connected with hidage. But the whole subject of Saxon land-measures and terminology is still in the greatest obscurity. For other examples of censarii, see *Staf. Collections*, v. 24, where in an *extent*, or survey, of 1114, the tenants are regularly divided into *villani* (bound to full services) and *censarii* (bound "bis in anno praestare aratrum et ter in augusto seeare cum suis").

57. *Domesday of S. Paul's*, xxii. 114, 27, 118, lv.

58. The precise holdings of the *libere tenentes* were one holding 50 + 30 + 15 + 15 + 10 + 1 acres + 1½ virgates, one with 4 virgates, one with 3 virgates + 5 acres, one with 2 virgates, three with 1 virgate, one with 22½ acres, one with 10 + 7½ acres, two with half virgates, and one with 15 acres, three with 10 acres, two with 7½ acres, and one with 5 acres.

59. *Mollond* and *Werklond* are distinguished from one another in an entry in a S. Paul's Inquisition of 1279; "Terra cum pertinentiis de mollond et werklond;" Hale, *D. of S. P.* lxxv. Cf. *werkmen* in n. 31 above.

60. Thus on the manor of Thorp, belonging to the monastery of Peterborough, at *Domesday Survey* there were twelve villani, two bordarii, four

servi; at the time when the *Liber Niger* was drawn up (1125–28) there were, besides two free tenants with dependent villeins, and one socman, six bordarii, twelve plene-villani, and six dimidii villani. But here the plene-villanus holds only eleven acres; *Chron. Petrob.*, 158. Cf. also the change in Castre, Werminton, Esctona, and Stannige. In Werminton, temp. *Liber Niger*, "xx. pleni villani et xxix. semi-villani tenent xxxiv. virgas et dimidiam" (p. 160), which is obviously a virgate for each full-villein, and half a virgate for each half-villein.

61. Thus, *e.g.*, on a manor belonging to the monastery of S. Peter of Gloucester (*Hist.* iii., 137), ten *consuetudinarii* each hold "dimidiam virgatum *terrae servilis*," and fourteen hold half a virgate between every two of them "conjunctim." So, as late as 1298, on one manor belonging to Merton College, there are thirteen holders of half virgates described on the roll itself as *custumarii*, but in the side rubric as *nativi*; Rogers, *Hist. Agric.*, ii. 654; cf. also 658.

62. Besides the example in n. 58 above, see the *Worc. Reg.* 60*a*, where the three free tenants on one manor hold $1\frac{1}{2}$, 3, and 2 virgates respectively; 81*a*, where the free holdings are of 2, 5, $2\frac{1}{2}$, 1, 2, 1, 2, $1\frac{1}{2}$, $3\frac{1}{2}$ virgates. The latter case is very interesting, for most of the holdings seem to have passed to tenants in chivalry, who held them "pro homagio" or "per homagium;" in some cases it is added "sine servicio" or "nihil inde solvit," in others "solvit inde annuatim" a certain amount. But it is very clear that all the holdings, free and servile, were reckoned in virgates, *i.e.* bound together by the compulsory rotation of crops, and probably by a co-operative system of agriculture: thus "xl. virgatae terrae tam liberorum quam villanorum sunt geldantes" and "summa *virgatarum liberarum*," etc.

63. *Engl. Village Community*, 178, 309.

64. See the discussion in Pollock, *Land Laws*, 206–209. It is true that "Borough English (inheritance by the *youngest* son) was very widely held in mediæval England to imply servile occupation of land;" Vinogradoff in *Engl. Hist. R.*, i. 736: but that custom seems to have prevailed only in certain districts of Kent, Surrey, Sussex, around London, and in Somerset, and to a still less extent in Essex and East Anglia, and Hampshire; Elton, *Origins of Engl. Hist.*, 118–119.

65. As, for instance, on the estates of Worcester Priory, n. 54 above. On one of the manors, Pillesgate, in Northamptonshire, belonging to Peterborough Monastery there were, in 1086, 26 socmen; forty years later, 44.

66. *Worc. Reg.*, 52*b*, 67*a*, 78*a*, 80*b*. In some cases they are registered as, like the villeins, holding technically at will: *e.g.* "de sokemannis ad placitum," *ib.*, 17*b*. Cf. Vinogradoff, u.s.

67. *Statutes of the Realm*, i. 2.

68. Thus in a manorial Presentment as late as 1819 occurs the clause: "The Homage do further present that by the custom of this manor the lord may, *with the consent of the Homage*, grant by copy of court roll any part of the waste thereof, to be holden in fee according to the custom of the manor, at a reasonable rent and by the customary services, or may, with such consent, grant or demise the same for any lesser estate or interest;" Seebohm, 447.

69. Examples of "tenentes de veteri essarto" and "novo essarto" are very frequent in the *Domesday of S. Paul's* (*e.g.* 6, 8, 11, 12,) and the *Worc. Register*.

70. For *weavers*, see *Dom. S. Paul's*, 28, 30; *Cust. Battle*, 63; *Hist. Glouc.*, iii. 167; *tailor*, in *Reg. Worc.*, 89*b*; *Battle*, 63.

71. Sir Henry Maine, *Village Communities*, 122, 135–136, compares the village waste to the national folkland, and represents the rights of the lord over the waste as, like those of the king over the royal demesne, due to usurpation. But there is no direct evidence of this, and the statute of Merton, as well as the custom requiring the consent of the homage to enclosure, may equally well be represented as limitations of an earlier arbitrary power of the lord.

72. There are abundant examples. As a specimen, see the Domesday of Ralph de Diceto, 1181, in *Domesday of S. Paul's*, 114. There the "Inquisitio" of Beauchamp begins with "Isti tenent de dominio," 35 in all, holding 158 acres; "remanent in dominio de terra arabili circiter cccc. acras," as well as meadow and woodland: forty years later there were 44 tenants of demesne land, holding 180 acres. In 1181, "Robertus persona" holds more than 34 acres, Ralph the reeve 24 acres, and a certain widow half a virgate, but the other holdings are all very small. And "in augmentum terrae suae" occurs 12 times. The lists sometimes mention to whom the change was due, *e.g.* "Michael filius Adae i. acram pro ii. denariis, quas (quam?) nicholaus canonicus dedit ei in augmentum." The manors belonging to the Chapter of S. Paul's were distributed among the canons, who paid a fixed ferm to the common fund and made what profit they could.

73. See previous note.

74. *Reg. Worc.*, 41*b*, 42*a*.

75. *Ib.*, 47*b*-50*a*.

76. In the 1222 *Domesday of S. Paul's* (70–71), in the list of those who "tenent de antiquo dominico" on a certain manor, is inserted in 14 cases (mostly in a later hand), "Item . . . de cremento *per capitulum* ut sit perpetuum." In one, and that apparently the earliest case, the addition is very small, only one penny to a previous payment of 27*d.*; but in the other

cases it is an addition of about half, *e.g.* where previously 10*d.*, 5*d.* is added; where 4*d.* or 5*d.*, 2*d.* This, as Hale suggests, *Introd.*, lxxxix., probably explains the meaning of the obscure opening sentence in the Beauchamp Rental of 1240: "Homines infra scripti, tenentes terras de dominico quas vocant Inlandes sine auctoritate capituli, augmentaverunt redditum assisum *ut auctoritas capituli interveniret.*"

77. *E.g.* "Valet dicta arura quatuor denarios;" "Valet hersura quatuor denarios et obolum;" "et plantabit fabas per unum diem, et valet obolum;" *Hist. Glouc.*, iii. 37, 38, et passim. *Cast. Battle*, passim.

78. "Terra ista fuit operaria usque ad tempus Hugonis de Runewell, servientis (*i.e.* bailiff) Ricardi archiediaconi qui primo posuit eam ad denarios;" *D. of S. Paul's*, 49.

79. In some cases there seems a threefold division, *e.g.* "Inferius notati tenent ad censum," yet bound to a few "precariae;" "inferius notati sunt operarii," working, in addition to precariae, two days a week, and "Isti faciunt magnas operationes," free from week-work, but with a great number of services; *Ib.*, 61, 62. For an instance of the retention of boon-days and of the tenants remaining in villenage in spite of commutation, *Reg. Worc.*, 73*a*, "De vilenagio: In hoc manerio sunt xi. virgatae terrae de vilenagio, quarum quaelibet *posita ad firmam* reddit per annum iiii. solidos . . . et arabit bis per annum et faciet iii. benrip, quamlibet cum iii. hominibus, et falcabit i. die cum uno homino, et levabit fenum et dabit auxilium *et merchet*. Si autem fuerint ad operationem," they are bound to heavy week-work, which is recorded. The same careful distinction is observed throughout: thus, to take another example: "In vilenagio sunt xvii. dimidiae virgatae, quarum quaelibet *cum censat* reddit, etc.; *cum vero fuerit ad operationem* invenit qualibet ebdomada duos homines," etc., *ib.*, 56*a*.

80. "Dimidia virgata quam tenuit ad censum modo tradita est alio ad operationem;" *D. of S. Paul's*. 23.

81. Besides the instance given in n. 79, see *Worc. Reg.*, 18*b*, 19*a*, and in many other places.

82. "Isti tenent tam ad censum quam ad operationem;" *D. of S. Paul's*, 49, 55.

83. *Worc. Reg.*, 18*b*, 43*b*, and elsewhere. "Rent of assize" became a technical phrase,—thus in the *Extenta Manerii* it is directed that inquiry should be made as to free tenants, "quantum valeant per annum et reddant per annum de Reditu assisae," and as to the *custumarii* "quantum valeant opera et consuetudines . . . per annum, et quantum reddat de redditu assisae per annum praeter opera et consuetudines;" *St. of Realm*, i. 242. For other examples of increase, see the *Great Roll* of the twenty-fifth year of Bp. Bec, of Durham, 1307, printed in appendix to the *Boldon Bk.* of the

Surtees Society: of the "redditus assisae" a very small part is said to be "de novo incremento nunc primo incipiente," xxvii.; while for the manors in another district only the "novus redditus" is given, xxx.

84. Besides the instances in n. 79, notice the rubric "De consuetudinibus villanorum cum fuerint ad operationem;" *Reg. Worc.*, 10*b*.

85. Thus the *aukermonni* and *cotmanni* on a Worcester manor, *ib.*, 43*b*; though they apparently had the option of commuting for a lump sum.

86. Examples abound; a convenient one is given by the Ibstone Rental of 1298, printed in Rogers, *Hist. of Agric.*, ii. 656.

87. Rogers, *Six Centuries*, 71, 76.

88. *Reg. Worc.*, 10*b*, 49*b*.

89. *Ib.*, 56*a*: "Sive censat sive non, summagiabit."

90. *Six Centuries*, 218. It probably took place first on the smaller manors, *e.g.* Brodeham, in *Cust. Battle*, 159 (5 Ed. II.).

91. *Reg. Worc.*, 119*b*. *Fleta* quoted in Hale's *Introd.* to *Worc. Reg.*, xcvi., c.; *Cust. Battle*, xxix.; Rogers, *Hist. of Agric.*, ii. 329, seq.

92. It may be conjectured from the fact that one person is especially described in *Domesday* as a *liber* bovarius, Ellis, *Introd.*, ii. 511-514, that the oxherds were at that time usually slaves. When we compare the descriptions of the Peterborough manors in *Domesday* and the *Liber Niger*, we find that *servi* appear in the former and not in the latter, and *bovarii* in the latter and not in the former. But there are traces that they were in 1125 only gradually rising from slavery, as in the entry on one manor: "Et unusquisque bovarius dat i. denarium pro capite suo, si liber est. Et si servus est, nichil dat;" *Chr. Petr.*, 163.

93. Rogers, *Hist. of Agric.*, ii. 620, 621.

94. *Ib.*, 578, col. 1.

95. Specimens *ibid.*, 617, seq.; described in *Six Cent.*, 48.

96. This will explain what Mr. Rogers wonders at, in *Six Cent.*, 18.

97. "In stipendio clerici qui fecit compotum ii. s., et ii. de gracia;" *Hist. of Agric.*, ii. 621.

98. Provisions of Westminster (1259), Statute of Marlborough (1267), *Statutes of the Realm*, i. 11. 24. *Select Charters*, 404, § 19.

99. A sharp distinction in theory was drawn later by the lawyers between the Court Baron and the Court Customary: though it was acknowledged that they might be held at the same place and time, the Court Baron was defined as the court of the *free* tenants; and it was laid down that, for the holding of a Court Baron (and therefore for the very existence of a manor, since the possession of a Court Baron was regarded as the essence of a manor), two freeholders at least were necessary. But it is doubtful whether this distinction was ever generally recognized. Thus Kitchen,

in his *Court Leete* (1580), p. 4*a*, says most precisely, "Mes note que divers sont appel maners deins queux ne sont ascuns qui tient de ceux maners forsque copiholders, 'ad voluntatem domini secundum consuetudinem manerii,' et ne sont ascuns franktenants que tient par charter, et uncore ceux seignories sont appel maners et en eux sont Court Barons."

100. "Hall-moot" seems to have been the old English term, possibly at first only for a court with criminal jurisdiction, *i.e.* a Court Leet. It occurs in the so-called *Leges Henrici Primi*, ix. 4 (*Select Charters*, 106): "Omnis causa terminetur vel hundredo, vel comitatu, vel *halimoto socam habentium*, vel dominorum curiis," etc. [See now Pollock and Maitland, *History of English Law*, i. 573.] As late as 1222, in an "Inquisitio facto in Halemoto de Thorp," the exercise of criminal jurisdiction is shown by the mention of the duty of the "foreman," or reeve, "Furem captum in curia custodiet et judicatum suspendet;" *D. of S. Paul's*, 38, 39. For the official record of the trial and execution of a man, in 1337, for stealing a robe worth ten shillings, see Rogers, *Hist. of Agric.*, ii. 666.

101. Notice the naïve hypocrisy of the canons of S. Paul's, who write of the vicar that "dum servit altari sit contentus altario;" *D. of S. Paul's*, 146; cf. xlv. Mr. Hatch, in his recent *Growth of Church Institutions* (chap. iii.), has shown that the early history of parochial revenues is not one of usurpation by patrons, but of the gradual limitation of the arbitrary rights of ownership of the lord of the manor over the Church fabric and its revenues.

102. This was technically known as *sequela* or *secta molendini*—in English, *suit and grist*. See *Worc. Reg.*, x., xi., 32*a*.

103. E.g. *Chron. Petrob.*, 67, s.a. 1284. Hand-mills, known as *querns*, were still used last century in the Hebrides. Pennant describes a quern as "made of two stones about two feet broad. . . . In the centre of the upper stone is a hole to pour in the corn, and a peg by way of handle. The whole is placed on a cloth; the grinder pours the corn into the hole with one hand and with the other turns round the upper stone with a very rapid motion, while the meal runs out at the sides on the cloth." In some manors there was also a common oven or bakehouse, which the tenants were bound to use, paying a fee known as *fornagium:* for an example, as late as 1714, see *Yorkshire Weekly Post*, March 19, 1887. Cf. for Newcastle, as to hand-mills and oven, *Select Charters*, 112.

104. E.g. *Boldon Book* in *Domesday*, iv. 570: "Molendinum est in manu episcopi, nondum ad firmam positum,"—proving that already it was usual to let it. Cf. *D. of S. Paul's*, 28: "In dominico est unum molendinum ad ventum quod potest poni ad firmam pro una marca deductis expensis."

105. The accounts of half the manors in the *Liber Niger* contain the phrase, "Est ibi unus molendinus cum molendinario et . . . solidos reddit." The importance of the mill is shown by its being separately mentioned when the whole manor was let; thus, "Manerium est ad firmam, cum dominio et villanis *et molendino* et cum instauratione," etc.; *Boldon Book*, *D. B.*, iv. 579. The miller might either hold it at a fixed quit-rent or at the will of the lord: hence the *Worc. Reg.*, 12*a*, distinguishes the mill in one manor as a "molendinum ad placitum;" with which may be compared the entry, "De molendinis ad firmam mutabilem" in the Mont S. Michel Survey, c. 1250, in *Delisle*, 679.

106. The communal character of these offices is shown best in the *Boldon Book*, where, in many manors, the entries occur one after the other, "Prepositus tenet . . . acras, pro suo servicio, Faber . . . pro suo servicio," Carpentarius . . . pro suo servicio;" *e.g.* in three manors, on p. 568. The amount of land is usually twelve acres, as, to take another example, "Faber tenet xii. acras pro ferramentis carucarum fabricandis." Cf. *D. of S. P.*, 68; *Worc. Reg.*, 66*a*; *Chart. Ramsay*, xxxiii. In the later entries the obligation is sometimes, as in the case of other labour-dues, "to furnish" a blacksmith, *e.g.* "Alicia relicta Petri Fabri tenet ferdellum terrae et inveniet unum fabrum domino *et toti villae*."

107. *Boldon Book*, 568, 569. But as the keeping of the pound is not likely to be onerous, he has other services and payments in kind to render.

108. Cf. Roscher's sketch of the economic character of mediæval society in his *Gesch. der Nat. Oekonomik*, 2.

109. Riley, *Introd. to Liber Albus* (*Munimenta Gildhallae*, i.), LXXXV.

110. *Wor. Reg.* xi.; Rogers, *Hist. of Agric.*, i. 455.

111. Rogers, *ib.*, i. 469.

112. E.g. *Reg. Worc.*, 56*a*: "N . . . facit ferra carrucarum et Prior inveniet ei ferrum et carbonem, vel ii. solidos pro carbone."

113. Rogers, *Hist. of Agric.*, ii. 606, seq.

114. *Ib.*, i. 460, seq.

115. See the very interesting account of the journey to London of Robert Oldman, the bailiff of Cuxham, in Oxfordshire, in 1331, *ib.*, 506, and *Six Cent.*, 113.

116. The account of one manor in the *Worc. Reg.*, 132*a*, contains the amusing entry: "Omnes, tam liberi quam villani, *excepta persona*, debent adjuvare cum hominibus et bobus ad summonitionem servientis, ad trahendam molam, *vicissim*, *successive*, quantum necesse fuerit, excepto opere. Prior vero inveniet karram (the cart) et hominem et duos boves subtus karram."

117. In the *Boldon Book*, in some eight cases the phrase occurs towards

the end of the account of a manor, "Dominium est ad firmam et reddit . . . ;" in some seven cases, "Dominium est in manu episcopi." Sometimes the villein dues are expressly included, *e.g.* 579, quoted in n. 105, above. Cf. Rogers, *Six Cent.*, 50.

118. *Boldon Book*, 568: "Villani de Southbydyk tenent villam suam ad firmam," though they are still bound to labour-dues at, apparently, a neighbouring village.

119. *E.g.* 1240, *Worc. Reg.*, 47*a*: "Curia cum pertinentiis, et duae carrucatae terrae de dominico, cum pratis et proventibus et herietibus *et vilenagio* traditae sunt villanis ad firmam pro c. quarteriis frumenti," and other payments in kind. The Prior still kept in his hands a granary, land which had once been a vineyard, a little arable land, and some meadow. In another case, 54*b*, where the holding by the villeins at ferm is described as "ab antiquo," the advowson is excepted; the ferm is "ad placitum;" half of the proceeds of the court of heriots go to the Prior; and the villeins are bound to certain services at neighbouring villages.

120. As in *Worc. Reg.*, 15*a*: "Nullus exeat de terra sine licentia;" where it is also said, "Rediment filios si de terra recesserint," and "Nullus faciat filium clericum sine licentia." This latter clause, with the addition of a prohibition to "coronare," *i.e.* "make a monk of him," is very frequently found.

121. *The Dialogus de Scaccario* speaks of the "ascriptitii qui villani dicuntur, quibus non est liberum obstantibus dominis suis a sui status conditione recedere;" *Sel. Charters*, 202.

122. Examples abound; e.g. *Worc. Reg.*, 15*a*: "Nullus vendet bovem sine licentia vel equum. Si quis vendiderit bovem vel equum dabit Thol, scilicet i. denarium."

123. In a case reported in the *Year Books, 13–14 Ed. III.*, ed. Pike (Rolls' Series), xxvi., "the plaintiff pleaded that there were 'in ecclesia S. Pauli' twenty-four hides of land, and that within them there were divers tenures of which one was called *customers-lond*. . . . The tenants of this customers-lond, she said, might grant their tenements to any persons with whom they might agree, to hold to the grantees and their heirs, or for life, according to the estate held by the tenants themselves. The grantor was to come into the court of the lord, and there in full court surrender the tenements to the use of the person with whom the agreement had been made," whereupon the bailiff ought to put him in possession. "The defendant admitted the tenure of customers-lond, but said that every tenant wishing to grant his estate to another had to come into the court of the lord, and there in full court *surrender the tenements into the hand of the lord*, whereupon the bailiff of the lord of the court would deliver the tene-

ments, *per virgam, to be held at the will of the lord and not otherwise.*" "The jurors decided that the bailiff had to place in seisin the person to whose use the surrender was made, *not on making a certain fine*, e.g. 12*d. for every acre, but on making a fine at the will of the lord.*" It would seem from this case that such a transference was so usual that tenants were beginning to omit the formal act of surrender into the hands of the lord, to claim the right to make grants for life or for ever, although their own holdings were technically only at will, and to do this on paying only a small and fixed fine. This evidence from the fourteenth century may be compared with the entry in *Domesday*, i. 179, about the 103 "homines" in Hereford, a town on the royal demesne. They had clearly risen from the position of villeins; each, besides a rent of 7½*d.*, paid 4*d.* "ad locandos caballos," and was still bound to certain labour services,—"tribus diebus in Augusto fecabat, et una die ad fenum congregandum erat, ubi vicecomes volebat." Yet "si quis eorum voluisset recedere de civitate, poterat, concessu prepositi, domum suum vendere alteri homini servitium inde debitum facere volenti, et habebat prepositus tertium denarium hujus venditionis."

124. An abstract of the documents in the *Burton Chartulary* is given in *Staffordsh. Collections*, v. 82, seq. For Glanvill see *Sel. Charters*, 162.

125. For further comment on this dictum, see bk. ii. ch. iv., § 50.

126. "I know of only one distinct period of famine in the whole economical history of England. This is the seven years, 1315–1321, especially in the first two and the last;" Rogers, *Six Cent.*, 62.

127. Mill., *Pol. Econ.*, bk. ii. ch. xvi. § 4: "The farmer requires the ordinary rate of profit on the whole of his capital; . . . whatever it returns to him beyond this he is obliged to pay the landlord, but will not consent to pay more."

128. Cunningham, *Growth of Engl. Industry*, 249.

129. Cf. Lassalle, *Bastiat-Schulze de Delitzsch*, ch. iv.

130. Hildebrand in *Jahrbücher für Nationalökonomie*, ii. (1864), p. 1, seq. He distinguishes three stages, the third being *Credit-wirthschaft;* "Either goods," including services, "are exchanged directly for goods; or use is made of a means of exchange, the precious metals, money; or, finally, goods are exchanged for a promise in the future to give back the same or a like value, *i.e.* on credit. In all these three methods of exchange, what may be the measure of value used in the exchange is quite indifferent. On the basis of these three possible means of exchange three Economic systems develop themselves,—*Natural-wirthschaft*, *Geld-wirthschaft*, and *Credit-wirthschaft;*" p. 4. Knies, criticising this statement, says that the distinction between *Natural-wirthschaft* and *Geld-wirthschaft* is valuable, "the third stage, however, is not at all a contrast to the other two,—a

mistake due to misunderstanding of the nature of credit. Our whole system of credit is one based on money;" *Politische Œconomie vom geschichtlichen Standpuncte* (1883), 382. Wagner accepts this criticism: "*Credit-wirthschaft* is not a development from *Geld-wirthschaft*, in the same way as that is of *Natural-wirthschaft*, for it implies the maintenance of a metal currency as a standard and measure of price;" *Lehrbuch der Pol. Oekon.* i. 194. As Roscher says, the ideas represented by the three terms are not co-ordinate; *Nat. Oekonomik in Deutschland*, 1038. The application of the distinction to the England of this period is pointed out by Ochenkowski, *Englands wirthschaftliche Entwickelung*, 9, and Nasse, *Agricultural Community*, 67.

131. Introduction to *Domesday of S. Paul's*, xlvi.–li.

132. *Dialogus*, ed. Hughes, Crump, Johnson, 30, 89.

133. Hawkins, *Silver Coins of England*, (2nd ed. 1876), 36.

134. Ruding, *Annals of the Coinage* (3rd ed. 1840), i. 126.

135. *Ib.*, i. 137.

136. "Before Christmas, King Henry sent from Normandy to England and commanded that all the moneyers should be mutilated. And this because a man might have a pound, and yet not be able to spend one penny at a market. And Roger, bishop of Salisbury, sent over all England, and desired all of them to come to Winchester at Christmas; and when they came thither his men took them one by one, and cut off their right hands. All this was done within the twelve days, and with much justice, because they had ruined this land with the great quantity of bad metal;" *Engl. Chronicle*, s.a. 1125.

137. Ruding, i. 165, 170, 171, 184, 202. For the two coinages of Henry II., see *Ralph de Diceto* (Rolls' Series), i. 302; ii. 7.

138. Ruding, i. 181, 182. Round halfpennies are said, but on little evidence, to have been issued by Henry I. The government must at this time have been anxious to issue them to a large amount, for twice as many dies for halfpence and farthings were issued to the moneyers as for pennies, and also several weeks earlier. None of these halfpennies, according to Ruding, now remain; and he supposes that, as they were much disliked by the people, they were recalled, and no new ones struck till 1248.

139. *Ib.*, i. 186. Kenyon, *Gold Coins of England*, 14, 15.

140. Ruding, i. 216–218.

141. *Ib.*, i. 222

CHAPTER II.

MERCHANT AND CRAFT GILDS.

[Authorities.—(*a*) The Merchant Gild. The best work on this subject is Gross, *Gilda Mercatoria* (Göttingen, 1883), which has for the first time shown the universality of this organization in English towns, and its functions in the thirteenth century. The only two bodies of gild statutes that have been preserved are those of Southampton (13th c.) and Berwick (1249–94): of the former the French text will be found in *Archæol. Journal*, xvi. (1859), translated in Davies, *Hist. of Southampton* (1883); the Latin text of the latter is in Cosmo Innes, *Acts of Parl. Scotland* (1844), and an English abstract in *English Gilds* (Early Eng. Text Soc., 1870). The only Merchant Gild surviving, though but in name, till the present time is that of Preston, of which ordinances of 1308 and 1328, and gild rolls from 1397 are printed in Abram, *Memorials of the Preston Guilds* (1882), and *Preston Guild Rolls* (Record Soc. Lanc. and Chesh., 1884). The gild rolls of two other towns, Leicester and Totnes, have been preserved: accounts of them are given in Thompson, *Hist. of Leicester* (1849), and for Totnes in *Third Rep. Hist. MSS. Comm.* (1872). For general sketches of early town history, see Kemble, *Saxons in England*, bk. ii. ch. vii.; Thompson, *Engl. Munic. Hist.* (1867) Stubbs, *Const. Hist.*, chs. v., xi., xiii.

(*b*) The Craft Gilds. The first and, until recently, the only work in English on craft gilds was Brentano's *Essay*, prefixed to *English Gilds* (1870), appearing later in German as *Einleitung* to the same writer's *Arbeitergilden der Gegenwart* (1871). Brentano exaggerated both their independence and their economic importance, as is pointed out, with some exaggeration in the opposite direction, by Ochenkowski, *Englands wirthschaftliche Entwickelung im Ausgange des Mittelalters* (1879). A clearer idea may be obtained by reference to the craft ordinances translated in

Riley, *Memorials of London* (1868); with which may be compared for Paris the *Livre des Métiers d'Étienne Boileau*, ed. Depping (1857). In the *Early Hist. of the Woollen Industry in England* (Amer. Econ. Assoc., 1887), by the present writer, will be found an attempt to trace the history of England's most important craft. Much scattered information is given in Herbert, *Hist. of the London Livery Companies* (1837); and the relation of the craft gilds to the municipal organization is examined in Stubbs, *Const. Hist.*, III., xxi. For France, see also Gasquet, *Précis des Institutions de l'Ancienne France* (1885), and for Germany, Maurer, *Gesch. der Städteverfassung*, II. (1870). The most detailed analysis of the mediæval organisation of industry is that of Schönberg, *Zur wirthschaft. Bedeutung d. deutschen Zunftwesens im Mittelalter*, in Hildebrand's *Jahrbücher für N. Oekonomie* (1867); and the characteristics of the various forms of industry are briefly compared by Held, *Zwei Bücher zur Socialen Gesch. Englands* (1881), bk. ii., ch. iii.

(*c*) Trade. The history of the treatment of foreign merchants has been for the first time adequately investigated by Schanz, in *Englische Handelspolitik gegen Ende des Mittelalters* (1881), pt. ii., ch. iii.; and the relations between English and foreign towns are illustrated by the *Calendar of Letters, 1350–1370*, ed. Sharpe, printed (1885) by authority of the Corporation of London. For the Hanse of London, see Warnkoenig, *Histoire de Flandre* (1835–46), trans. Gheldolf; for the Teutonic Hanse and the Steelyard, Lappenberg, *Geschichte des Hansischen Stahlhofes zu London* (1851), and the popular article on the Steelyard, by Pauli, in *Pictures of Old England* (1861). Much information on markets, fairs, and means of communication may be gathered from Rogers, *History of Agriculture*, and Kitchin, *Winchester Cathedral Records*, No. 2 (1886), and some little from Jusserand, *Vie Nomade d'Angleterre au xiv. Siècle* (1884). The *Statutes of the Realm* are of especial value for this subject.]

§ 7. *The Merchant Gild.* At the time of the Norman Conquest there were some eighty towns in England.[1] Most of these were what we should now consider but large villages; they were distinguished from the villages around only by the earthen walls that surrounded them, or the earthen mounds that kept watch over them. London, Winchester, Bristol, Norwich, York, and Lincoln were far in advance of the rest in size and importance; but even a town of the first rank cannot have had more than seven or eight thousand inhabi-

tants.[3] We shall perhaps be not far wrong if we estimate the town population at about a hundred and fifty thousand, out of a total population of about a million and a half.[3]

As to how these towns had come into existence, it were scarcely profitable to construct any definite theory until the condition of the body of the population of early England has been more satisfactorily determined than it is at present. But it is readily seen that population would tend to congregate at places where high roads crossed one another, or where rivers could be forded; such places, indeed, would in many cases be of strategic importance, and so would come to be fortified. There is no reason to suppose that any monastic orders, before the Cistercians, "lived of set purpose in the wilderness;"[4] monasteries and cathedral churches were placed where villages were already in existence. But beneath the shelter of the monasteries the villages soon grew into small towns;[5] the labour services to which their inhabitants were bound, or the commutation for them which they paid, long testifying to the originally servile character of the holdings.[6] Many a village around the fortified house or castle of some great noble had a similar history.

Such towns necessarily became centres of what little internal trade there was. For although agriculture long remained one of the principal employments of the burgesses, yet it must have early been necessary for supplies of food to be brought from the country around: this is the most primitive and essential form of trade. The lords, to whom the towns were subject, would see their interest in the establishment of markets, in which protection was guaranteed, and paid for in the shape of tolls: and so came into existence those weekly or half-weekly market days[7] which, in spite of improved means of communication, are still so important in England.

Commerce with the Frank kingdom had long been carried on from London and the ports of Kent, especially Sandwich and Dover. Traffic with the Danish settlements on the Irish coast, a traffic in which slaves were the chief commodities, brought Chester and Bristol into prominence in the tenth and eleventh centuries; and the connection with the Scandinavian kingdoms, caused by Canute's conquest, brought York, Grimsby, Lincoln, Norwich, Ipswich, and many other ports along the eastern coast, into active commercial communication with the Baltic countries.[8] Yet the trade with foreign countries cannot have been large; the wares which, in an old English dialogue, the merchant describes himself as bringing with him, seem to be all articles of luxury such as would be needed only by the higher classes—"purple cloth, silk, costly gems and gold, garments, pigments, wine, oil, ivory and brass, copper and tin, sulphur, glass, and such like."[9] The mention of merchants in the English laws is so infrequent[10] that we can hardly suppose that any considerable trading class had come into existence.

In the troublous years which followed the landing of the Conqueror the more important English towns suffered greatly; in some cases a third or half the houses were destroyed, and the population reduced in like proportion,—a result to which the chances of war and William's policy of castle-building contributed in equal measure.[11] But even during the twenty years before the great survey of 1086, the towns on the southern coast had begun to profit by the closer connection with the opposite shore.[12] And as soon as the Norman rule was firmly established, it secured for the country an internal peace and order such as it had never before enjoyed; the temporary retrogression was more than made up for; and in town after town arose the merchant gild.

The merchant gild, or hanse, for the words are used

synonymously, was a society formed primarily for the purpose of obtaining and maintaining the privilege of carrying on trade,—a privilege which implied the possession of a monopoly of trade in each town by the gild brethren as against its other inhabitants,[13] and also liberty to trade in other towns.[14] The exact character of the monopoly probably varied somewhat from place to place. Everywhere, apparently, non-members were left free to buy and sell *victuals*;[15] but if they went further and engaged in regular trade they became subject to tolls from which the gild brethren were free.[16] If the trader was prosperous enough to pay the entrance money and become a member of the gild, but obstinately refrained from doing so, he was coerced into compliance by repeated fines. In some places a promise to inform the gild officers of any man trafficking in the town and able to enter the gild was part of the entrance-oath of every brother.[17] Each member paid an entrance fee, and probably other dues to the gild chest, which were spent for the common purposes of the gild, especially in festivities. And since no society could be conceived of in the Middle Ages without some sort of jurisdiction over its members,[18] the gild merchant, in its meetings known as "morning-speeches,"[19] drew up regulations for trade and punished breaches of commercial morality.

Now, there certainly had existed before the Conquest both religious gilds and frith gilds, *i.e.* clubs or societies for the performance of certain pious offices, and for mutual assistance in the preservation of peace.[20] It is quite possible therefore that similar societies for the purpose of trade may have been formed equally early; but the first positive mention of a merchant gild is certainly not earlier than 1093.[21] With the reign of Henry I. begins the long series of charters granted to towns by the king or other lords. Under Henry II. such charters were obtained, among other places, by Bristol,

Durham, Lincoln, Carlisle, Oxford, Salisbury, Southampton; and in all these charters the recognition of a merchant gild occupies a prominent place.[22] Indeed, the lawyer Glanvill, writing at this time, regards the *commune*, i.e. the body of citizens with rights of municipal self-government, as identical with the gild merchant.[23] Such merchant gilds may have been in existence for some time before they were recognized by charter: the value of the charter lay rather in the sanction which it gave to the coercive action of the society, and the rights which it secured for its members in other than their own towns. In spite of the paucity of evidence, the existence of a merchant gild can be definitely proved in ninety-two towns out of the hundred and sixty represented at one time or other in the parliaments of Edward I. No considerable name,—with two exceptions, namely London and the Cinque Ports—is wanting from the list. It is impossible not to conclude that every town, down to those that were not much more than villages, had its merchant gild. This fact of itself is enough to prove the great part it must have played in the town life of the time.

The evident similarity of the regulations of those four gilds whose ordinances have been preserved, in places so far apart as Totnes, Southampton, Leicester and Berwick, can only be explained by supposing that merchant gilds all over England had much the same organization. Each was presided over by an *alderman* (in some cases two), with two or four assistants, usually known as *wardens* or *échevins;* and sometimes there were *stewards* also. There was generally a small inner council of twelve or twenty-four. The alderman and wardens, besides summoning and presiding over the meetings and festivities, managed the funds of the society, as well as its estates when, as was frequently the case, the gild had purchased or otherwise acquired land.[24]

Who were eligible for membership it is impossible with certainty to determine. It is clear that the association included a very considerable number of persons, *e.g.* as many as two hundred in the small town of Totnes;[25] that while it embraced merchants travelling to distant markets, it did not, at any rate at first, exclude craftsmen as such;[26] that the eldest sons or heirs of gildsmen had a right to free admission, and younger sons on paying a smaller entrance fee than others; and that, certainly also at first, members could give or sell their rights, and transmit them to heiresses, who might exercise them themselves or give them to their husbands or sons.[27] The most usual term for the rights of membership was *seat, sedes:* members were said to *seek, have, sell,* or *give* their *seat,*[28] which was often described as *below* or *above* that of another—a phrase possibly referring originally to a place in the market. The word *gild* is also sometimes used for all the rights of membership, though more frequently for the meetings of the society, especially for the solemn gatherings once or twice a year.[29]

We know that merchants from other towns were admitted to membership, and that the same privileges were often obtained by neighbouring monasteries and lords of manors.[30] But clearly the bulk of the members belonged to the town itself; and there are strong reasons for supposing that, of the inhabitants, only such were admitted to membership as held land within the town boundaries,—the *burgage* tenants, *burgenses* or *cives*, burgesses or citizens *par excellence*, who alone were fully qualified members of the town assembly.[31] We must not, however, regard the members of the gild as being all of them great merchants. In most towns, agriculture was still one of the main occupations of the burgesses;[32] but most holders of land would find it desirable

to sell at any rate their surplus produce. The articles most frequently mentioned in the gild documents—skins, wool, corn,[33] etc.—show that the trade consisted almost entirely in the sale and purchase of the raw products of agriculture. It has already been noticed that non-members were often permitted to buy and sell subject to the payments of tolls, but in some cases trade in certain articles was entirely forbidden to them, *e.g.* in skins.[34] More important still is it to observe that in some places the manufacture of cloth had become so considerable that the merchant gild thought it worth while to obtain from the king a monopoly of the retail sale of the dyed cloth used by the upper classes,[35] or even of the retail sale of all cloth.[36] We shall see later how these privileges brought them into conflict with the craft gilds.

We have noticed that the gild assemblies, or its officers on its behalf, drew up regulations and exercised a jurisdiction in matters of trade. These regulations illustrate clearly a characteristic common both to the merchant and craft gilds, namely that, while each individual member was within certain limits allowed to pursue his own interest as he thought best, there was nevertheless a strong feeling that the trade or industry was the common interest of the whole body; that each was bound to submit to regulations for the common good, and to come to the assistance of his fellow-members. Thus it was ordered in Leicester that the dealers in cloth, going to the fair of S. Botolph at Boston, should place themselves on the southern side of the market, and the wool dealers on the northern. Somewhat later it was provided that the Leicester merchants at Boston should always display their cloth for sale within the "range" in which the Leicestershire men were accustomed to stand, under penalty of having to pay a tun of ale. A man might, indeed,

for the sake of security, take his cloth home with him at night to a lodging outside the "range," but he was not to sell it outside the row.[37] Only in such a way was it possible to exercise any supervision over those who claimed to come from Leicester; and only in this way could a fraudulent dealer be hindered from ruining the good credit of the town's wares. But in return for these restrictions the gildsman gained the benefit of protection. If a gildsman of Southampton were put into prison in any part of England, the alderman and the steward with one of the échevins were bound to go at the cost of the gild to procure his deliverance. At Berwick, "two or three of the gild" were bound to "labour" on behalf of any one in danger of losing life or limb, though only for two days at the gild's expense.[38] Individuals were not to monopolize the advantages of trade. In Southampton, while a bargain was being made, any other member could come up and claim to join in it on giving security that he could pay for the portion he desired. In Berwick, a man who bought a lot of herrings must share them at cost price with the gildsmen present, and any one not present could have his share on paying the price and twelvepence to the buyer for profit.[39]

The jurisdiction of the gild had, of course, for one of its chief purposes the maintenance of the society's privileges. There are frequent ordinances against acting as agents for the sale of goods belonging to non-members, or teaching or aiding a strange merchant to purchase to the injury of the gild.[40] But an equally important object was the maintenance of fair dealing and of a high standard of quality in the goods sold. The rolls contain numerous records of fines for dishonestly dyeing wool, for mixing bad wool with good, for short weight, for selling at more than the assize or fixed price, as well as for the offence of forestalling,

which we shall see later to have been so carefully guarded against.[41]

The brotherhood, moreover, was unlike a modern society aiming at some particular material advantage, in that it entered into a great part of everyday life. Sick gildsmen were visited, and wine and food sent to them from the feasts; brethren who had fallen into poverty were relieved; their daughters were dowered for marriage or the convent; and when a member died his funeral was attended by the brethren and the due rites provided for.[42]

§ 8. It was, as we have seen, in the second half of the eleventh century that merchant gilds began to come into existence; during the twelfth century they arose in all considerable English towns. The rise of *craft gilds* is, roughly speaking, a century later; isolated examples occur early in the twelfth century, they become more numerous as the century advances, and in the thirteenth century they appear in all branches of manufacture and in every industrial centre.

Craft gilds were associations of all the artisans engaged in a particular industry in a particular town, for certain common purposes: what those purposes were will be seen later. Their appearance marks the second stage in the history of industry, the transition from the *family system* to the *artisan (or gild) system.* In the former there was no *class* of artisans properly so called; no class, that is to say, of men whose time was entirely or chiefly devoted to a particular manufacture; and this because all the needs of a family or other domestic group, whether of monastery or manor-house, were satisfied by the labours of the members of the group itself. The latter, on the contrary, is marked by the presence of a body of men each of whom was occupied more or less completely in one particular manufacture.[43] The very growth from the one to the other system, there-

fore, is an example of "division of labour," or, to use a better phrase, of "division of employments." If, like Adam Smith,[44] we attempted to determine "the natural progress of opulence," we might formulate the law of development thus: in an agricultural community the first division of employments that will appear will be between the great bulk of the population who continue to be engaged in agriculture, and that small number of persons who occupy themselves in transferring the surplus raw produce of one place to other places where there is need of it. When, however, as in the case of England, a country is surpassed by others in the arts, or is unable to furnish itself with articles of luxury, such as spices or silks, dealers in such imported commodities desired by the wealthier classes will appear even before there is a class of dealers in the raw produce of the country. But in any case the growth of a small merchant or trading class precedes that of a manufacturing class.

When the place of the young manufactures of the twelfth century in the development of mediæval society is thus conceived, the discussion as to a possible Roman "origin" of the gilds loses much of its interest.[45] No doubt modern historians have exaggerated the breach in continuity between the Roman and the barbarian world; no doubt the artisans in the later Roman Empire had an organization somewhat like that of the later gilds. Moreover, it is possible that in one or two places in Gaul, certain artisan corporations may have had a continuous existence from the fifth to the twelfth century. It is even possible that Roman regulations may have served as models for the organization of servile artisans on the lands of monasteries and great nobles,—from which, on the continent, some of the later craft gilds doubtless sprang. But when we see that the growth

of an artisan class, as distinguished from isolated artisans here and there, was impossible till the twelfth century, because society had not yet reached the stage in which it was profitable or safe for a considerable number of men to confine themselves to any occupation except agriculture; and that the ideas which governed the craft gilds were not peculiar to themselves but common to the whole society of the time; then the elements of organization which may conceivably have been derived from or suggested by the Roman artisan corporations become of quite secondary importance.

There is, as we have said, little doubt that some of the craft gilds of France and Germany were originally organizations of artisan serfs on the manors of great lay or ecclesiastical lords. This may also have been the case in some places in England, but no evidence has yet been adduced to show that it was so. But it must be remembered that as yet we know very little of the early history of the towns; and just as it is possible that in many cases the burgesses who afterwards formed the merchant gild were originally villeins bound to labour services to their lords, so it is possible that there were in some places groups of artisans working for a lord, and under regulations and officers appointed by him, who gradually freed themselves from servitude, and became free craftsmen. But this is no more than speculation; at the time when the craftsmen first appear in such documents as are at present accessible, they are personally free, and not subject to seigneurial supervision.

The relation of the craft gilds to the merchant gild is a still more difficult question. In many of the towns of Germany and the Netherlands a desperate struggle took place during the thirteenth and fourteenth centuries between a burgher oligarchy, who monopolized the municipal government, and were still further strengthened in many cases by

union in a merchant gild, and the artisans organized in their craft gilds; the craftsmen fighting first for the right of having gilds of their own, and then for a share in the government of the town. These facts have been easily fitted into a symmetrical theory of industrial development; the merchant gilds, it is said, were first formed for protection against feudal lords, but became exclusive, and so rendered necessary the formation of craft gilds; and in the same way the craft gilds became exclusive afterwards, and the journeymen were compelled to form societies of their own for protection against the masters. It was not difficult to explain the much scantier notices as to English affairs by the light of this theory, and to make up for the silence of English chroniclers by foreign analogies.[46]

The very neatness of such a theory, the readiness with which it has been accepted by popular writers in spite of the paucity of English evidence, have perhaps led some historians to treat it with scant consideration. It is urged that there is no evidence of any such contest in this country between burghers and artisans.[47] It is further maintained that the craft gilds had but little independence, and are to be regarded as merely the machinery by which municipal authorities supervised manufacture.[48] Yet this view does not seem satisfactory in view of the information which has been lately brought to light with regard to the merchant gild. The following theory as to the relations of the various bodies cannot be regarded as more than a theory; but it does not seem to be in collision with facts, and it is confirmed by much indirect evidence.

Membership of the town assembly, the *court leet*, or *portmanmote*, seems to have been originally bound up with the possession of land within the town boundaries; and it was the right to appear in such an assembly that must originally

have made a man a burgess or citizen. Of such burgesses the merchant gild of each town was constituted.[49] At first the term "merchant," or "trader," would cover all those who had occasion to sell or buy anything beyond provisions for daily use; and the holder of a plot of land, however small, who was also a craftsman, would not be excluded. But this harmonious union must have been disturbed in two ways. There came into existence a class of landless inhabitants of the towns,—owing probably in the main to the natural increase of the town population itself, but also perhaps partly to some influx of serfs from the country districts. These landless inhabitants could not be regarded as burgesses at all, and therefore could not be admitted into the merchant gild, even if they had desired, and had been able to pay the entrance money. Many of them would become servants to the richer citizens, but some would turn to handicrafts. And, secondly, although in a small town, such as Totnes, the traders' gild might long continue to include craftsmen, in the larger towns there would be a tendency for the management of the gild to fall entirely into the hands of "merchants" in the modern sense of the word; until at last they could venture to impose and enforce the rule that before admission to the gild an artisan must abjure his craft.[50] But by this time the merchant gild, whose members must from the first have exercised a predominant influence in the town, had become practically identical with the governing body; or, rather, a municipal organization had come into existence which combined the rights of jurisdiction of the court-leet with the rights of trade of the merchant gild.[51] Thus two distinct issues were raised: were the craftsmen to obtain for their gilds rights of supervision and jurisdiction over their members, apart from and independent of the powers of the municipal authorities? and were they to

continue to submit to the trading monopoly of the gild merchant?

The first craft gilds that come into notice are those of the weavers and fullers of woollen cloth. It was the weavers' gild, all over western Europe, that began and led the struggle against the old governing bodies. The reason is obvious: the manufacture of materials for clothing was the first industry in which a wide demand would make it worth while for men to entirely devote themselves to it, and therefore it was the first in which a special body of craftsmen appeared. Gilds of bakers, indeed, are to be found almost as early;[52] but so much less skill is required in baking than in weaving, that it long remained, as it still does to a great degree, a family employment. Hence bakers could never be so numerous as weavers; and as the former manufactured for immediate consumption, they scarcely came into conflict with the trading monopoly of the merchants.[53]

We owe to the chance existence of the Pipe Roll for 1130 the knowledge that in that year there were gilds of weavers in London, Lincoln, and Oxford,[54] making annual payment to the king in return for his authorization of their existence; the weavers of Oxford, referring in the reign of Edward I. to the time when the payment was fixed, declared that their gild then contained sixty members.[55] In the same reign there was also a gild of corvesars, or leather-dressers, in Oxford.[56] During the early years of Henry II. gilds of weavers are also found at York, Winchester, Huntingdon, and Nottingham, and a gild of fullers at Winchester, each making annual payments to the Exchequer.[57] The annual payment was not merely a tax; it was the condition upon which they received the sanction of the Government. Gilds that the king had not authorized were amerced as "adulterine," as was the case in 1180 in London with the gilds of goldsmiths, butchers, pepperers,

and cloth-finishers.[58] But there seems to have been no attempt to forcibly dissolve the adulterine societies; they were not large enough to arouse the jealousy of the London burgesses; and every one of them survived to take its place among the later companies.

The only definite provision, besides a general confirmation of "liberties and customs," in the earliest charters,—such as those granted to the weavers of London and York by Henry II., —was that no one within the town (sometimes the district) should follow the craft unless he belonged to the gild.[59] The right to force all other craftsmen to join the organization,—*Zunft-zwang*, as German writers call it,—carried with it the right to impose conditions, to exercise some sort of supervision over those who joined. It was natural that the earliest gilds, growing up in a certain antagonism to the burgesses, should seek to make their jurisdiction as wide as possible. But such an independent authority would intensify the jealousy of the governing bodies in the towns. The lengths to which the antagonism between the burghers and artisans might go is clearly illustrated in London. We do not know whether there had ever been a gild merchant in London; however, in 1191, by the recognition of its "commune" the citizens obtained complete municipal self-government, and consequently the recognition of the same rights over trade and industry as a gild merchant would have exercised.[60] Almost immediately they offered to make an annual payment to the Exchequer if the weavers' gild were abolished. John accepted the offer, and in 1200 the gild was abolished by royal charter.[61] For some reason or other it was again restored in two or three years; but long afterwards the weavers did not feel themselves out of danger.[62]

In other towns it is the economic struggle that is most clearly discernible. We have seen that the charters to

towns, granting permission to have a merchant gild, usually contained a clause to the effect that none but members of that society were to engage in trade, and that it is expressly stated in one case that they are to have the monopoly even of the retail sale of cloth.[63] There is reason to believe that this was a monopoly very generally insisted upon. The London "Book of Customs" contains certain entries [64] entitled the "laws" of the weavers and fullers of Winchester, Oxford, Beverley, and Marlborough,—reports or copies which the London magistrates must have obtained some time in the thirteenth century, to strengthen their cause. These "laws" draw a sharp distinction between the craftsman and the freeman, *franke homme*, of the town. No freeman could be accused by a weaver or fuller, nor could an artisan even give evidence against one.[65] If a craftsman became so rich that he wished to become a freeman, he must first forswear his craft and get rid of all his tools from his house. No weaver or fuller might go outside the town to sell his own cloth, and so interfere with the monopoly of the merchants; nor was he allowed to sell his cloth to any save a merchant of the town.[66] Indeed, he must get the consent of the "good men" of the town before he can even carry on his craft; and he was not to work for any but the good men of the town.[67] This last rule reappears in an order of the gild merchant of Leicester as late as 1265, prohibiting the craftsmen of that town from weaving for the men of other places so long as they had sufficient work to do for the burgesses of Leicester.[68]

The materials are not yet accessible which would allow us to trace the way in which the old organization of the burgesses lost its exclusive rights; or, what is perhaps only the other side of the same change, the way in which the craftsmen gained the rights of burgesses. The trading monopoly was lost, probably, before the end of the thirteenth century.

It is, at any rate, evident that the statute of 1335 allowing foreign merchants to trade freely in England is framed in such terms as clearly to include English craftsmen in the permission it gives, and that it must have had the effect of weakening any monopoly which the governing class in any of the towns might still claim. "The king hath ordered," it runs, "that all merchants, aliens, and denizens, *and all other*, and every of them, *of whatever estate or condition they may be* that will buy or sell corn, wine, avoir du poys, flesh, fish, and all other articles of food, wool, *cloth*, wares, merchandise, and all other things vendible, from whencesoever they come, . . . at whatsoever place it be, city, borough, town, port of the sea, fair, market, . . . within franchise or without, . . . may freely without interruption sell them *to what persons it shall please them*."[69] With the loss of their trading monopoly disappeared the *raison d'être* of the gilds merchant, and with it of the gilds themselves as separate organizations. In many towns the name long survived, but only as a term to describe certain functions of the municipal authorities, especially the admission of apprentices to the freedom of the city. In others the gild reorganized itself in the shape of a social and religious society; while in one or two, it is possible that the later company of Merchant Adventurers grew out of the gild merchant. But the latter development, which is of extreme interest, has not yet been adequately investigated.[70]

§ 9. The result of the contest between the municipal government and the craft gilds in the matter of jurisdiction cannot be precisely defined, because it was not precisely defined at the time. Brentano represents craft gilds as entirely independent; as issuing regulations concerning prices, wages, the character of the work, and the processes of manufacture; and as exercising an independent jurisdiction in trade matters over their members. His critics, on the other hand, point out

that regulations such as the gilds issued were certainly also issued both by municipal authorities and in statutes; they are even inclined to deny to the gilds all real judicial power, attributing to them only what may be called police functions —the power, that is to say, of bringing offenders before the municipal tribunal. A truer statement would seem to be this: the town magistrates were recognized as having a vague but real authority over the gilds, enabling them, if they pleased, to issue ordinances binding upon any craft; but most of the gild statutes were really drawn up by the craftsmen themselves, and the approval of the town magistrates, necessary to give them binding force, was granted as a matter of course. The every-day regulation and supervision of manufacturing processes was surrendered to the gild officials. As to jurisdiction, however, there were almost certainly wide differences between the various gilds. Most gilds, or *crafts* (*mestiers*, *mysteres*), as they came to be called, were empowered to deal in their courts with petty disputes or breaches of rule on the part of their members, though the accused person could demand to be tried before the mayor; and, indeed, the municipal authorities could bring the offender before them in the first instance, if they thought proper. But some of the crafts were brought within the gild organization comparatively late, and rather to enable the municipal authorities the more easily to control them than for any advantage the craftsmen might themselves have seen in union; these had, apparently, no judicial powers at all, and the only duty of their wardens was to present offenders against the regulations before the mayor. On the other hand, the London weavers, and probably some others of the older gilds, had courts with considerable independent judicial authority, and their members could claim to be tried by the court of their gild and by no other.

The London weavers held a "gild" once a year, and a court every Thursday. The court was presided over by four bailiffs elected by the men of the craft and accepted by the mayor. There was a clerk to assist in holding the court, and there was a sergeant to summon offenders before it: these two officials were paid half a mark a year out of the fines received by the court. Any of the folk of the craft impleaded in the sheriffs' court could be removed from it to the gild court on the demand of one of the bailiffs: two bailiffs acting together had the power of removing to the gild court pleas brought against weavers even by non-members, though it was added later that it was not to have the power of fining non-members. The matters in which the gild court had jurisdiction are defined as "pleas of debt, contract, agreement, and petty offences,"—limited only in the case of disputes with the *burellers*, who prepared yarn for them, by an agreement in 1300 that such cases should be decided in the mayor's court by a jury composed equally of members of the two bodies.[71] When we find that the charters conferred on other gilds by Henry II.,—as, for example, that to the corvesars of Oxford,—were drawn up in precisely the same terms as that to the London weavers, we cannot help conjecturing that much the same powers as those exercised by the weavers may have been exercised by some other of the more ancient gilds, both in London and elsewhere.

At the end of the reign of Edward III. there were in London forty-eight companies or crafts,[72] each with a separate organization and officers of its own, a number which had increased to at least sixty before the close of the century. Other important towns must have seen a like increase in the number of artisans and a like formation of companies, though the subdivision did not go so far. In towns of the second rank, such as Exeter, the development is later, and occupies

the following century[73]: while in smaller towns companies were only formed when there was a considerable body of men employed in the same craft; so that many artisans remained unbound by any such organization, and subject only to the regulations imposed by statute, or by the mayor or bailiff.

We are able roughly to determine the period at which the formation of companies, instead of being opposed, began to be forwarded by the municipal authorities. Until the reign of Edward I., seemingly, craft gilds had arisen spontaneously, for the mutual help and advantage of the craftsmen: they had been obliged to make annual payments to the king or other lords to secure recognition; and they had found it difficult to maintain their rights against the municipal authorities. The reign of Edward I. appears to mark the turning-point in their history. He saw that they might be a useful counterpoise to the power of the governing bodies in the towns, and therefore exerted his influence on their side.[74] On the other hand, the establishment of a strong central authority made it less necessary and less possible for the newly rising gilds to obtain such extensive rights of jurisdiction as the *Zünfte* in Germany, or the weavers' gild in London in the previous century. Accordingly we see a new policy in the craft ordinances, which from the reign of Edward II. have been preserved in such numbers. The gild system was no longer merely tolerated; it was fostered and extended, though doubtless primarily for police purposes,—to ensure due supervision of the craft, and the punishment of offenders against regulations, through persons chosen by the craft but responsible to the municipal authorities. Up to this time the gilds had been few in number, because there had been few artisans, and those only such as were engaged in meeting most elementary wants, food and clothing; such, namely, as

bakers, butchers, leather-dressers,—above all, those engaged in the manufacture of cloth, weavers, fullers, and dyers. But now a rapid increase in the number of artisans takes place; new wants begin to be felt, and each new want is supplied by a separate body of craftsmen. Consequently we find the municipal authorities confirming or creating companies, not only of such wholesale dealers as grocers and drapers, but also of such artisans as spurriers, helmet-makers, brace-makers, farriers, wax-chandlers, scriveners, and piemakers. It is often not easy to determine whether the ordinances which first mention these companies actually created them. In many cases, probably, they had come into existence spontaneously, somewhat before the date of the ordinances "accepted by the mayor and aldermen at the suit and request of the folk of the trade."[75] But in many cases, also, the organization was imposed from without by the municipal rulers; as with the masons in 1356, "because that their trade has not been regulated in due manner by the government of folk of their trade, in such form as other trades are:" while in one case, that of the wax-chandlers in 1371, "the reputable men of the trade," show the mayor and aldermen how that "their trade has been badly ruled and governed heretofore, and there still is great scandal . . . because they have not Masters chosen of the said trade, and sworn before you, as other trades have, to oversee the defaults that are committed in their said trade, and to present them to the mayor and aldermen."[76] This last sentence illustrates the limited character of the jurisdiction of the new companies. In some the only duty of the masters, wardens, or overseers was to present offenders to the mayor's court[77]: in all the new crafts an offender had the right of appeal from the decision of the gild officials to the mayor,[78] who however seems to have always called in the aid of a small jury chosen from the particular craft.[79]

It must be remembered, as to the relation of the gild to the municipal authorities, that in London during the fourteenth century,—and doubtless the same was the case elsewhere in this and the following century,—the municipal organization was itself changing. The master craftsmen were becoming more prosperous; and before the end of the reign of Edward III., instead of the craftsmen being incapable of citizenship, citizenship came to be bound up with membership of one of the companies. The old jealousy between craft gild and "commune" disappeared when the leading men of the gilds came to exercise influence in the government of the commune. But by that time the gilds themselves had assumed a different character.[80]

§ 10. The internal organization of the gilds can be briefly described. The most important part of it was the authority of the wardens, overseers, bailiffs, or masters, whose chief duty was to supervise the industry and cause offenders to be punished.[81] They were elected annually at full assemblies of the men of the craft, absence from which was punished by fine;[82] and it was at such or similar gatherings that from time to time new regulations were drawn up to be submitted to the approval of the mayor and aldermen. No one could work at the craft who had not been approved and admitted to the gild by its officials; and it would seem that in London, from the middle of the fourteenth century, admission to the freedom of the city and to a craft took place at one and the same time.[83]

In the early part of the fourteenth century. *apprenticeship* was only gradually becoming an absolutely necessary preliminary to setting up as a master;[84] to the same period is due the fixing of the term of apprenticeship at seven years. A separate *class* of *journeymen* was also only just coming into existence. It was still, apparently, the usual practice for a

man, on coming out of his apprenticeship, to set up for himself. Such "serving-men" as there were, made contracts with master-craftsmen to work for them for a certain term, sometimes for a period of several years. But from the frequency with which the rule is repeated, that "no one shall receive the apprentice, serving-man, or journeyman of another in the same trade during the term agreed upon between his master and him," and the frequency also with which the mayor of one town has to write to the mayor of another to ask that runaways should be sent back, it appears that apprentices often became discontented, and absconded.[85] The gild ordinances imply that, as a rule, only master craftsmen took part in the government of the fraternity, but there is at least one case where ordinances are described as agreed to "as well by serving-men as masters."[86] It does not appear that as yet the number either of journeymen or of apprentices that one master could take was limited by legislation or ordinance: but we shall see later that the limitation of number in the sixteenth century was in order to maintain an existing state of things, so that it is probable that at this time a master artisan would not usually have more than one or two journeymen and one or two apprentices.[87]

The regulations drawn up by the crafts aimed at the prevention of fraud, and the observance of certain standards of size and quality in the wares produced. Articles made in violation of these rules were called "false," just as clipped or counterfeit coin was "false money." For such "false work" the makers were punished by fines (one half going to the craft, the other half to the town funds), and, upon the third or fourth offence, by expulsion from the trade. Penalties were provided, as far as possible, for every sort of deceitful device; such as putting better wares at the top of a bale than below, moistening groceries so as to make them heavier,

selling second-hand furs for new, soldering together broken swords, selling sheep leather for doe leather, and many other like tricks.[88] It was for the same reason that night-work was forbidden; not, as Brentano says, with the philanthropic object of providing work for all, but because work could not be done so neatly at night, and because craftsmen, knowing they were not likely to be visited at that time by the wardens, took the opportunity to make wares "falsely," or because working at night disturbed the neighbours.[89] It seems, however, to have been a general rule that men should not work after six o'clock on Saturday evening, or on the eves of Double Feasts.[90] There is, indeed, one regulation which does seem designed to ensure men's having work, and that is, that "no one shall set any woman to work, other than his wedded wife or his daughter."[91]

It is certain, from the analogy of the gilds merchant, as well as from what we know of the later usages of the companies and of the practices of similar bodies abroad, that in each of the craft gilds, besides regulations as to manufacture, there were rules providing for mutual assistance in difficulties, for meetings, festivities, and common worship. But the documents which would throw light on the subject have not yet been published. The craft statutes contained in the archives of the corporation of London deal almost exclusively with the regulation of processes; and this is easy to explain, for only the action of the gilds in the supervision of industry would fall beneath the view of the city authorities; with their internal life as friendly societies the corporation had nothing to do. Fortunately one set of ordinances therein contained, those of the white-tawyers or leather-dressers, in 1346, are more detailed;[92] and from these we may conjecture similar customs in other crafts. They have a common-box for subscriptions: out of this

sevenpence a week is paid to any man of the trade who has fallen into poverty from old age or inability to work, and sevenpence a week likewise to a poor man's widow, so long as she remains unmarried. "If any one of the said craft shall depart this life, and have not wherewithal to be buried, he shall be buried at the expense of the common-box; and when any one of the said trade shall die, all those of the said trade shall go to the vigil and make offering on the morrow." Some of the companies, as we learn later, had chantries and side chapels in parish churches, and solemn services at intervals. The white-tawyers are only able to afford "a wax candle to burn before Our Lady in the Church of All Hallows, near London Wall." And there is one clause which clearly displays the effort after fraternal union: it is one ordaining that "those of the trade" shall aid a member who cannot finish work he has undertaken, "so that the said work be not lost."

§ 11. In the first half of the fourteenth century, the gild system reached its highest point of efficiency. For two centuries afterwards this form of organization continued to be adopted by one industry after another as it arose in each town. Yet, as early as this, signs of decay may be observed; new difficulties begin to show themselves; and, in the one considerable manufacture that England possessed, the increase of foreign demand led to the breakdown of the gild system altogether.[98] Deferring, however, the examination of these changes till a later section, let us look at the economic characteristics of the gild system while it was still intact.

i. It was distinguished from the earlier "family system" of industry, in that manufacture was carried on for the purpose of supplying consumers outside the domestic group. There was a *market*, in the sense of a number of purchasers;

and therefore the goods produced can be called *wares*, as they could not before. To use modern technical phraseology, there were *values-in-exchange*, as well as *values-in-use*. But the market was very limited; in most cases restricted to the people of a particular town or district. Indeed, looking at England as a whole, it may be said that there were then a number of local markets; not as there tends to be now, one market. To-day, for instance, the price of corn is affected by the whole demand of England, or rather of a much larger area; then it would have been determined, but for legislative action, by the demand of a comparatively small area. It was this local limitation of demand that made the regulation of prices and methods of manufacture so much easier than it would be in modern times.[94] The same smallness of the market, and the fact that most of the articles demanded were called for by necessity and not by fashion, caused demand to be stable: none of the social difficulties now caused by the rapid and incalculable fluctuations in demand had as yet begun to show themselves.

ii. *Capital* played a very small part. In order to set up as a master-artisan a man needed to be able to hire a house, and buy the necessary tools, as well as, in many crafts, a little money to buy materials. But *skill* and *connection*, the ability to produce good wares, and the steady demand of a small group of customers were far more important. This element of technical skill modern machinery has driven far into the background.

iii. There was as yet no large class of wage-labourers, no "working-class" in the modern sense of the term. By "working-men" we mean a number of men, from among whom individuals may indeed rise to become masters, but the majority of whom cannot hope ever to rise to a higher position. But in the fourteenth century a few years' work

as a journeyman was but a stage through which the poorer men had to pass, while the majority probably set up for themselves as master craftsmen as soon as apprenticeship was over. There were, therefore, no collisions between "capital and labour," though there might be occasional quarrels between individuals. The hard-working journeyman expected to be able in a few years to become an independent master; and while he remained a journeyman there was no social gulf between himself and his employer. They worked in the same shop, side by side, and the servant probably earned at least half as much as his master.

iv. If, therefore, we compare the working-class of to-day with that of the fourteenth century, it is not with the journeymen, but with the master craftsmen, that the comparison must be made. The most important contrast that strikes us is that the mediæval craftsmen were personally independent, in a sense in which the modern workman is not. He worked in his own shop, owned his own tools, and worked at what hours he pleased, subject to the restrictions as to work at night or on Sunday. In some crafts, it is true, he received the raw material from customers, giving back finished articles for the customers' own use; in some he was more or less dependent on the men of other crafts, receiving half-finished goods from them and returning them one stage further advanced. But in many industries the craftsman bought his own materials, and sold the goods to such customers as presented themselves, *i.e.* he combined the functions of a trader with those of a manufacturer.[95] The shopkeeper class was only beginning to come into existence.

v. We have seen that the gilds were not independent, but were subject to the control of the municipal and central authorities. The chief object of this control, as of the gild statutes, was to secure the good quality of the wares pro-

duced. The modern state has abandoned the attempt, except in the case of certain articles of food. But it must be recognized that the task was an easier one in the Middle Ages. Wants were comparatively few and unchanging; they were supplied by neighbouring craftsmen; consumer and producer stood in direct relation with one another. Such regulations had regard, not only to the interests of the consumers, but also to those of the craft itself, which would be injured by the knavery of individual members.[96] They only disappeared when production became much greater, and aimed at satisfying a wide and changing market. As we should expect, the doctrine *caveat emptor*[97] first appears in the cloth industry: a petition of the London fullers, in 1369, urges that those who bought cloths with patent defects should do so at their peril.[98]

vi. The supervision of the processes of manufacture was the chief reason for the action of the central and local authorities in encouraging and even insisting on the *separate organization of different branches of the same industry*, and the rule that every craftsman should choose his craft and abide by it. An Act of Parliament of 1363 ordained that "artificers and men of mysteries (*mestiers*, i.e. crafts) shall each join the craft he may choose between this time and the next Candlemas;" "trespassers" were to be punished by imprisonment for half a year, and by a fine to the king.[99] This was followed up by special ordinances "that no dyer or weaver shall *make* any cloth," *i.e.* interfere with the trade of the cloth-finishers.[100] The division was sometimes amusingly minute: bowyers were not to make arrows,—that was to be left to the fletchers; cordwainers, "the craft of workers in new leather," were not to retail or make up old boots and shoes for sale, and so interfere with the "cobelers," though the cobelers were specially permitted to use new leather for resoling old boots.[101]

vii. The members of each craft usually lived in the same street or neighbourhood. Thus in London the saddlers lived round, and attended, the church of S. Martin-le-Grand; the lorimers lived in Cripplegate, the weavers in Cannon Street, smiths in Smithfield, and bucklers in Bucklersbury.[102] So in Bristol there were Tucker Street, the home of the tuckers or fullers, Corn Street, Knifesmith Street, Butcher Row, Cooks' Row, and the like.[103] Such a grouping must have enormously strengthened the sense of corporate life in each craft, and must also have made the work of supervision comparatively easy.

So large a part of the manufacturing work of the country was arranged on the gild system, that that term may be fairly used to describe the whole organization of industry. But in some occupations and districts, while there was a sufficient demand for some commodity to induce men to give up themselves to a particular sort of labour, there could never be a demand large enough to call into existence a body of men of the same craft large enough to form a gild or company. Thus most villages had a smith, but only in the largest town was there a smiths' gild. Isolated weavers and fullers were probably to be found scattered up and down the country. In such cases the individual craftsman would be without the support and control of the gild; but the essential characteristics of his position were the same as of the position of the gild member. His capital was very small; he dealt directly with the customer; and between himself and the one or two men or boys he might employ, there was no social gulf.[104]

§ 12. *Internal Trade.* Under conditions such as are above described, a much smaller part must have been played in the economic life of society by domestic and foreign trade than in the England of to-day. Such trade as there was, was regulated by the strong government of the Angevins on

principles which the circumstances of the time readily explain. Unless traders were brought together at definite centres at definite times, it was impossible either to protect them, or to supervise their dealings in the interest of the consumer, or to obtain from them those payments which formed a considerable part of the royal revenue. Hence the policy of the government was to create for trade regular channels within which it might be compelled to move.

The roads were bad, though probably not so bad as they became in the seventeenth century; the chief highways were of Roman construction, and tended to become worse rather than better as time went on. No general law for the repair of roads was passed until the Statute 2 & 3 Philip and Mary.[105] The Statute of Winchester, 1285, provided that bushes and underwood, though not oaks or great trees, should be cleared away for two hundred feet on each side of highways leading from one market town to another; but this was only to prevent men "lurking in them to do hurt."[106] The obligation of repairing highways lay, by common law, upon the parish, except in those cases where the burden was attached to a property through or near which the road passed: neglect could be dealt with by indictment;[107] and the destruction of bridges and roads was one of the subjects into which the sheriffs were bound to inquire in the view of frankpledge. Moreover, the great proprietors whose estates were scattered over many counties had an interest in the maintenance of roads, which was lessened in succeeding centuries by the greater consolidation of estates. Yet the roads were often almost impassable. In London the plan was adopted, in 1356, of charging tolls for every cart or packhorse entering or leaving one of the city gates,—except, curiously enough, those of great people and other folks bringing victuals for use in their own houses,—for the repair of the roads immediately outside the

metropolis.[108] The maintenance of bridges was recognized as especially important, and as, in some measure, a religious duty. Very often they were entrusted to special wardens, who were empowered to take toll; thus Rochester Bridge, on the main route to the ports for France and the Low Countries, was in the hands of wardens and assistants, who had an organization similar to that of a gild, and administered, for the repair of the structure, revenues derived from "proper" and "contributory" lands.[109] But the right of receiving bridge toll was often obtained by persons who neglected their duties; and, in the case of bridges not specially entrusted to individuals, it was often a difficult matter to determine which of the neighbouring landowners was responsible, and still more difficult to make him pay.[110] Inns were plentiful; the warden of Merton and two of the fellows, travelling on business to Northumberland and back in 1332, stayed almost every night at inns on their way.[111] Apparently it was only the very poor, from charity, or the very powerful, from fear, who were entertained in monasteries.[112]

Every town had a market and fixed market days, where, as now, the surplus produce of the country districts was sold to the townsfolk, and the manufactures of the town artisans were sold to the farmers. The possession of a market could be claimed only on the ground of a royal grant, or of immemorial usage; and as it was a valuable right, and the establishment of a market in the neighbourhood, by diminishing the trade of those already established, lessened the lords' profits, there was always the greatest jealousy of any rival, a jealousy which furnished frequent occasion for lawsuits. Thus, in the reign of Henry II., the men of Oxford and Wallingford declared that at the Abingdon markets in old time nothing had been sold except bread and beer, or at any rate that nothing used to be taken there in boats or waggons.

The king, however, was on the side of the monastery, and granted permission to hold a "full market," though goods were not to be brought to it in any but the abbot's boats.[113] Bracton lays down that a market shall never be established nearer than six miles and two-thirds to one already existing,[114] but it is not probable that any such rule was ever observed. The Oxford market on Wednesdays and Saturdays was regulated by the University as early as 1319. The articles sold were hay and straw, faggots, timber, pigs, beer, coal and roots, leather and gloves, furs, linen and cloth, leather, corn and dairy produce; and the place in the High Street and Corn Market at which each kind was to be sold was strictly determined.[115] Pigs, for instance, were to be stationed for sale between S. Mary's and All Saints; the setting apart in our towns of a piece of ground for a cattle market away from the main streets is a refinement of a later age.

To buy foreign goods, or the products of distant counties, men had to wait until the great fairs, of which the traces are now everywhere gradually disappearing. They usually began on a saint's day,—a fact pointing to their origin in the concourse of people to particular shrines on great festivals; the disorders in churchyards on such occasions were a frequent subject of condemnation by early Church councils. An especially convenient day was September 1, the festival of S. Giles, for then stores could be laid in for the winter; and the chapel of the hermit saint, always outside the walls, was a convenient place of gathering. The most important fairs were those of Stourbridge, near Cambridge, for East Anglia and the trade with Flanders,[116] and of Winchester for the southern counties and the trade with France: the former retained considerable importance down to the last century; the latter fell into decay in the fifteenth century, so that more particular notice must be given to it in this place.[117]

A fair for three days, on the eastern hill outside Winchester, was granted to the bishop by William II.; his immediate successors granted extensions of time, until by a charter of Henry II. it was fixed at sixteen days, from August 31st to September 15th. On the morning of August 31st, "the justiciars of the pavilion of the bishop" proclaimed the fair on the hilltop, then rode on horseback through the city, receiving the keys at the gates, took possession of the weighing-machine in the wool market of the city to prevent its being used, and then, with the mayor and bailiffs in their train, rode back to the great tent or pavilion on the hill, where they appointed a special mayor, bailiff, and coroner to govern the city in the bishop's name during fair-time. The hill-top was quickly covered with streets of wooden shops: in one the merchants from Flanders, in another those of Caen or some other Norman town, in another the merchants from Bristol. Here were placed the goldsmiths in a row, and there the drapers; while around the whole was a wooden palisade with guarded entrance,—precautions which did not always prevent enterprising adventurers from escaping payment of toll by digging a way in for themselves under the wall. On the first day also had appeared, with horses and armour, before the bishop's justiciars, those tenants of the bishop who were bound so to appear by their tenure; from among them three or four were appointed to see that the sentences of the court and the orders of the bishop's marshal were duly executed in the fair, in Winchester and in Southampton. All trade was compulsorily suspended at Winchester, and within a "seven-league circuit," guards being stationed at outlying posts, on bridges and other places of passage, to see that the monopoly was not infringed. At Southampton, outside the circuit, nothing was to be sold during the fair-time but victuals, and even the very craftsmen of Winchester were bound to transfer themselves to the hill,

and there carry on their occupation during the fair.[118] There was a graduated scale of tolls and duties: all merchants of London, Winchester, or Wallingford who entered during the first week were free from entrance tolls; after that date new comers paid tolls, except the members of the merchant gild of Winchester.[119] For weighing a bale of wool, fourpence was paid as "bishop's weighing-money," as well as a penny from the seller and a penny from the buyer as the weigher's fee; and there were similar dues on other goods. In every fair there was a *court of pie-powder* (of dusty feet), in which the lord's representative decided by merchant law in all cases of dispute that might arise, suspending for a time the ordinary jurisdiction of the town; at Winchester this was called the Pavilion Court. Hither the bishop's servants brought all the weights and measures to be tested; here the justices determined upon an assize, or fixed scale, for bread, wine, beer, and other victuals, adjudging to the pillory any baker whose bread was found to be of defective weight; and here, every day, disputes between merchants as to debt were decided by juries upon the production and comparison of the notched wooden tallies.[120]

Similar in general character to the Winchester fair, but of less importance, were those of Boston, S. Ives in Huntingdonshire, Stamford, and S. Edmundsbury,—all, it will be noticed, in the south-eastern half of England. At Oxford there was S. Frideswide's fair for seven days in July, during which time the government of the city was in the hands of the prior.[121]

To escape tolls, merchants often tried to linger on after the fair was legally over. This was forbidden by a Bishop of Winchester in the first year of the fourteenth century, on pain of excommunication. The lords of fairs themselves sometimes tried to unduly prolong their fairs, and so both injure

other lords of fairs and also defeat the royal policy of forcing trade into particular channels. Accordingly the statute of Northampton in 1328 enacted that proclamation should be made at the beginning of each fair how long it was going to last: if the lord permitted it to last longer than the time limited by charter, the franchise, *i.e.* the right of receiving tolls, would be forfeited; and an act, somewhat later, imposed on merchants who sold goods after the closing day a fine of double the value of the wares sold, and of this the informer was to have a quarter.[122]

§ 13. In the history of the foreign trade of England three periods may be roughly distinguished. In our own day it is the "world-market" to which attention is chiefly and of necessity directed. We are accustomed to compare the amount of exports from England to *all other countries* with that of the imports to England from all other countries. In an earlier period, what occupied the thoughts of merchants and statesmen was rather the relation between the amount of exports to *each particular* country, and of imports from that country. But, during both these periods, it has been the trade of the whole of England that men have usually had before their eyes. There has, in fact, during both been a *national* trade. But there was a yet earlier period, and it is with that we have now to do, in which there was nothing that could be called *inter-national* commerce; what existed was scarcely more than a trade between certain towns, an *inter-communal* or *inter-municipal* commerce.

To fully realize the contrast, we must endeavour to picture to ourselves the state of society in the twelfth and thirteenth centuries. Modern towns include so many professions and industries, so many classes with divergent interests, yet each with some influence on the government of the town; so much manufacture is carried on outside the

limits of towns, so much trade, also, directed from outside; moreover, the control of the central authority representing the interests of other towns and districts is so constant and effectual, that it would be absolutely impossible nowadays for municipal authorities to regulate the economic affairs of citizens in the exclusive interest of one class. But, as we have seen, that was both possible and actually effected in the English towns of the twelfth and thirteenth centuries. In each, a limited number of the inhabitants, the "burgesses" proper, held in their hands both the government of the town and the monopoly of trade to and from it. What is true of England, is also probably true of the whole of western Europe. But as England was industrially and commercially far behind other lands, foreign merchants visited this country and carried on a considerable trade both of export and import, at a time when few Englishmen ventured to cross the sea. This trade was not carried on by isolated individuals: just as the merchants from a particular town, attending a distant fair, held together and occupied neighbouring booths, so the merchants of a foreign town, coming to England, clung together, and sought privileges to be enjoyed in common.

This fact also is closely connected with the character of municipal government at the time. Nowadays, to a merchant who goes from Manchester to reside in a foreign country, there is no particular advantage in entering into partnership with another merchant from Manchester, rather than with one from Rochdale; the custom-duties he will have to pay, in either case, will be the same, and in any difficulty it will be the English consul to whom he must appeal. But in the thirteenth century the merchants of, let us say, Amiens, residing in England, formed part of that body of burghers that governed Amiens; they were regarded

as representing the interests of Amiens; their treatment depended on particular treaties with or conditions granted to Amiens; and, in any difficulty, it was to the magistrates of Amiens that they would look for assistance.

The towns of Flanders and northern France, and those of northern Germany and on the Rhine, were able to carry out an arrangement for partially remedying the defects of such a system,—the plan, namely, of a union of towns for the joint protection of their commerce; and thus arose the two Hanses, the Hanse of London and the Teutonic Hanse, of which we shall speak later. Their efforts must not be considered as directed towards the creation of a *national* trade, towards the safeguarding of the interests of France or Germany, as such; they were rather alliances of the merchant oligarchies of several towns for their mutual advantage; and they were obstacles rather than aids to the growth of nationalities.

When foreign traders arrived at an English port they found themselves face to face with a governing body of the same character as that to which they themselves belonged at home. They were not, indeed, unwelcome; for they carried away the raw produce of the country, wool, woolfells, and leather, which the merchants of the town had bought at fair or market; and they brought fine cloth from Flanders, wine from Gascony, and other wares, which the town merchants could gain profit by retailing. But they were regarded with constant suspicion, lest they should succeed in what, of course, they were ever attempting, viz. in breaking down the monopoly of the English merchants themselves in the *internal* trade. Hence we find them subjected to a stringent code of regulations, drawn up and enforced by the municipal authorities. They must buy their goods only of "burgesses;" they must sell only to "burgesses," and that

only on market days, *i.e.* in full publicity; they must not venture on retail trade; they must not go inland with their goods; and, to ensure their not going beyond the limits marked out for them, they are not to remain in this country more than forty days.

Such was the condition of things at the date of Magna Carta. Two articles of the Charter provided that merchants should have safe passage to and from England, and should be free from exorbitant customs. This was but a vague and indefinite promise, and by no means secured freedom of trade. For almost a century the English burgesses were able to maintain their exclusive rights; but these rights were opposed to the interests of the great nobles,[123] who thought that by dealing directly with the foreign merchants, and dispensing with the English middleman, they could get a better price for the produce of their manors, as well as buy at a cheaper rate the luxuries from foreign countries. The king, himself the greatest landowner in the country, could not fail to share these views; with the additional stimulus to action in the knowledge that the foreign merchants were ready to pay higher duties, and so add very considerably to his revenue, if only they were given larger opportunities for making profit themselves.

No direct attempt was made to break down the burgher monopoly until the time of Edward I. During the long reign of Henry III., however, with the increase of the number of foreign merchants, especially from southern France and Italy, came a slight relaxation of the restrictions to which they were subject. Instead of being obliged to reside in the houses of citizens, they were permitted to have warehouses and residences of their own;[124] and it became usual for the king to grant licenses to trade, or safe-conducts, to whole towns, and not, as before, to individual merchants.

In 1237, indeed, the merchants of Amiens, Corbie, and Nesle,—three, that is to say, of the most important towns of the Hanse of London,—were fortunate enough to secure from the merchants of London a relaxation of their regulations, in return for a subscription of £100 "towards making the conduit for bringing water from the spring of Tyburn," and a promise to pay £50 three times a year,—at the fairs of S. Ives, of Holland (*i.e.* S. Botolph at Boston), and of Winchester.[125] Henceforth they were allowed to carry any of their merchandise, except wine and corn, to any place they pleased in England, to trade therewith as they thought fit; while of the merchandise disposed of within London itself, woad, garlic, and onions could be sold to non-citizens.

The quarrel between Edward I. and the burgesses of London gave the king his opportunity. For fourteen years (1285–1298) the privileges of London were in the hands of the king, and the city was governed by wardens of his appointment. The natural result was that both native artisans and foreign merchants profited at the expense of their common enemy. It was, as we have seen, during this period that the London weavers' gild was finally successful in securing its privileges, and that the foreign merchants first ventured to remain in England more than forty days. The Commons, *i.e.* the English merchant class, complained in Parliament that "whereas foreign merchants had not been wont to stay more than forty days, during which they used to sell to natives who lived by the profit (*i.e.* of retailing), now the foreigners themselves carry off that profit."[126] As soon as the Londoners regained their powers of self-government they renewed and re-inforced the ancient restrictions. But in 1303 Edward was ready for the great stroke, which for some time he had been preparing. In that year he granted to the foreigners the *Carta Mercatoria,* wherein, in return for

the payment of additional customs, he abolished all the previous limitations as to the time and place of residence, and as to the persons to whom goods might be sold; and although of the retail sale of most articles the English burgesses were still to retain a monoply, that of spiceries and merceries,—wares of increasing importance,—was especially permitted to the foreigners. At the same time, severe penalties were threatened against municipal authorities who refused to do justice to a foreigner; and it was ordered that in such suits as might in future arise between natives and aliens, one half of the jury should consist of merchants from the town whence the foreigner in question came.

It is unnecessary to follow the details of the struggle which occupied the next fifty years. In 1309 the burgess members complained in Parliament that the new duties increased the prices of imported goods: Edward II. thereupon removed them for a time, to see if this really was the case; but re-imposed them in 1310, declaring that prices had not diminished after the change. Taking advantage of the disputes between the king and the barons, the burgesses secured the abolition of the new custom-dues by the ordinances of 1311, only in order that they might immediately put into force the old restrictions as to time of residence, etc., on the ground that on ceasing to pay the additional imposts the foreigners lost their new liberties. Edward, victorious over the barons in 1322, restored the foreign merchants to their former position; with the consequence that violent riots took place in London, and the houses of the Bardi were sacked. The weak Government of the early years of Edward III. was at first obliged to restore to the towns their old privileges; but bit by bit they were gradually put aside: in 1335, foreign merchants were again permitted to deal with any natives they pleased; in 1343 they were allowed to stay

more than forty days, on condition that in that case they should become liable to the ordinary taxation; in 1351 they were given the right to sell by retail; and in 1353 the additional customs imposed in 1303 were at last confirmed by act of Parliament. The sequel must be deferred till later.

It must be noticed, in order fully to understand the matter at issue, that the burgesses treated the merchants of other English towns in much the same way as they treated foreigners. Thus we meet with a petition from the merchants of Southampton that merchants coming to the town from Winchester or Salisbury should be prohibited from buying from any save burgesses; and the same request was sent from Lynn with regard to the traders of Ely and Cambridgeshire.[127] Other instances of the same policy of monopoly have been already given in describing the merchant gild. The word *foreigner*, indeed, is used for any non-burgess, whether English or alien; and it is sometimes not easy to determine which is meant. Doubtless there was always a certain feeling of national antagonism. Yet it is clear that foreign traders were hindered and watched, not so much because they were aliens, as because they were not burgesses of the town to which they came.

The inter-municipal character of the trading relations of the time, and the fact that the civic authority treated all other towns alike, whether they were English or foreign, is illustrated by the recently printed *Calendar of Letters* from the mayor and corporation of London during the years 1350–1370. They are all directed to the magistrates of other towns, and almost all insist on the payment of debts alleged to be owing to Londoners. The same phraseology is employed whether the letter is to the "Mayor and Commonalty of the Town of Bristol," or to the "Chief-Executor of the Ordinance of Justice, the Priors of the Arts, and Gonfalonier,

the People and Commonalty of the City of Florence;" to Colchester, Yarmouth, Oxford, or to Bruges, Ghent, or Dendermonde. In each case the magistrates of the town addressed are requested to cause justice to be done, "in such manner as they would wish their folk to be treated:"[128] or threatened that, if the debt is not paid, reprisal will be taken upon the folk of that town repairing to London.[129]

§ 14. It remains now only to speak of the associations formed by the foreign merchants and of the organization which the English merchants themselves received in the first half of the fourteenth century. Of the former, the Hanse of London and the Teutonic Hanse were by far the most important. Flanders and the north of France were industrially far in advance both of England and of the rest of northern Europe: and the wool, needed for their main industry, cloth-making, had always been obtained from England. For a long time the Low Countries furnished probably by far the most considerable number of traders visiting England; and the towns engaged in the trade are found, in the early part of the thirteenth century, united in a league, known as the Hanse of London, for mutual help.[130] But its members had other objects besides the maintenance of freedom of trade for themselves: they rigidly excluded all artisans of their own towns from either buying the raw material in England, or selling there the finished produce; and there are many signs that the organization strengthened the hold of the burgesses on the government of their towns. The Hanse of London at one time included as many as seventeen towns, among them all those in Flanders of any importance, and for a while even Chalons, Rheims, S. Quentin, Cambray, Amiens, and Beauvois. It lingered on until the fifteenth century, but it had long fallen into the background before the new wealth and vigour of the Teutonic Hanse.

The first German town, outside the Netherlands, to rise to commercial importance was Cologne, which in manufactures, especially in the manufacture of cloth, was far in advance of the rest of Germany.[131] As early as 1157 we find mention, in a letter of protection, of the hanse of the men of Cologne in London.[132] In a writ of Richard I., issued at Cologne itself on his return from captivity in Austria, they were granted permission to trade over the whole of England, especially at the fairs, and the payment of two shillings yearly "for their guildhall in London" was for a time remitted. The merchants from all other German towns trading in England found it desirable to join the Cologne Hanse. This arrangement did not present any difficulties so long as the only other towns of commercial activity were those of western Germany. But early in the thirteenth century the towns of the Baltic, chief among them Lübeck, began to rise into eminence, owing largely to the fact that the Baltic was at that time the only home of the herring. The efforts of Cologne to exclude them from trade with England were fruitless: they were granted a safe conduct by Henry III. in 1238; in 1267 they were permitted to form a separate Hanse. And before the end of the thirteenth century, Lübeck, which by its alliance with Hamburg had gained the entire control of the Baltic trade, had forced Cologne into a position of subordination, and the old Hanse of Cologne had been swallowed up in the Teutonic Hanse under Lübeck's presidency.[133]

It does not enter into our present purpose to show how from this alliance of merchants in London and other trading centres, especially Bruges, Novgorod, and Bergen, arose an alliance of the towns from which they came, an alliance to which the struggle against Waldemar III. of Denmark (1361–1370) gave the character of a confederate state. We have at present only to do with the settlement in London. It is

obvious that the compact organization of the Hanseatic merchants,—the facility with which they could act, and be treated, as a corporate body,—must have powerfully contributed to the break-down of the monopoly of the English burgesses in the internal trade.

It is interesting to notice that the society at the *Steelyard* the name early given to their establishment in London on the Thames' side, had the characteristics as it were of a merchant gild within a fortress. None but unmarried men could reside there. They dined together in a common hall, the masters at a high table, the apprentices below; their dwellings, warehouses, wharves, and gardens were surrounded by a strong wall, with gates which were closed at curfew. Every master had his own suit of armour.[134] Like all other gilds, their corporate business and funds were managed by an alderman, assistants, and a council chosen by themselves. Like other gilds, also, each member was left free to pursue his own interests: trading was individual, not corporate, yet within limits imposed for the common good.

Down to the middle of the thirteenth century the export of English commodities,—wool, woolfells, leather, tin, and lead, —was almost entirely in the hands of foreign merchants. But about that time we begin to trace the growth of a body of English merchants exporting English products to foreign markets, and it is then that the organization known as the Staple first makes its appearance. The Staple, in its primary meaning, was an appointed place to which all English merchants were to take their wool and other "staple" commodities for sale. Its purpose was to bring merchants so closely together that trade might be more easily regulated and supervised; and, especially, in order that the custom duties might be more easily levied. The institution was due to royal policy and initiative; for a long time it was opposed

by many of the merchants. We cannot, indeed, help seeing that fiscal motives largely prompted the various regulations;[185] and that the power of removing the staple from one foreign town or state to another was valued by the sovereigns as a useful weapon of diplomacy. Yet the difficulties in the way of foreign trade were so great that some such system was necessary, at a time when Englishmen were but beginning to venture on foreign trade, and were without the strength which numbers and wealth gave to the Flemish and Hanse merchants. As late as 1363 the Commons complained of the injuries done to English subjects in lands outside the jurisdiction of the king—injuries which he was therefore unable to redress.[186]

For a century there was no fixed policy as to the town in which the staple should be placed. Usually it was in Flanders, and then almost always at Bruges; but political considerations again and again caused it to be removed to Brabant, especially to Antwerp. The ministers in the minority of Edward III., doubtless under pressure from the English merchants, for a time removed all restrictions as to place of sale; but after a few years the staple was again fixed in Flanders. For some years, from 1353 onward, the plan was tried of establishing some ten or more staple towns in England, and forcing foreign merchants to come to England to buy, a plan to which Richard II. once again resorted. The conquest of Calais, however, furnished a place which combined the advantage of being abroad, and therefore near the foreign market, with that of being within English territory, and there were some obvious political reasons for favouring the new possession. Accordingly, after the staple had been again and again placed at Calais for short periods, from the middle of the reign of Richard II. it became fixed there permanently. Whatever might be the staple town, the management of the trade was the same. In each place there were mayors of the staple,

usually two in number, nominated at first by the king and later elected by the merchants of the staple themselves, and there was a certain number of aldermen. It was their duty to try suits which arose between merchants, by "law merchant;" to fix prices below which wool and other wares were not to be sold; and to see that the royal customs were duly paid.[127]

NOTES.

1. Seventy-nine towns that can be identified are mentioned in the *English Chronicle* (see list in App. c. to Kemble, *Saxons in England*, ii.), and eighty boroughs appear in *Domesday*. The relative importance of the towns in the south of England in the early part of the tenth century may be roughly estimated according to the number of moneyers permitted to them by the law of Athelstan (Schmid, *Gesetze der Angelsachsen*, 140), viz. to London 8, to Canterbury 7 (owing however to the archbishop retaining the right to two and the abbot to one), to Winchester 6, to Rochester 3 (of whom one depends on the bishop); to Lewes, Southampton, Wareham, Shaftesbury, Exeter, 2; to Hastings, Chichester Dorchester, 1.

2. Cf. Pearson, *Hist. of Engl.*, i. 381.

3. The total population recorded in *Domesday*, according to Ellis, is 283,242; but there are considerable omissions, not only of the northern counties, but also of London and Winchester, and several smaller places, and of the members of monastic bodies and clergy. If we take the number of households to be 300,000, and multiply by 4 to get the number of women and children, we should arrive at a total population of 1,500,000. This estimate is probably too high, for as late as the end of the reign of Edward III. the population was, at most, but 2,500,000; Rogers, *Six Centuries*, 117–121. The number of *Burgenses* recorded in *Domesday* is 7968; but in the time of the Confessor it had been 17,105. Allowing 8000 for omissions, we should have a total of 25,000, which multiplied by 5 gives 125,000. But it must be noticed that "burgensis" means only a full-citizen; there was probably in many towns a considerable number of more or less servile inhabitants. Thus in Norwich (*Domesday*, ii. 116–118) there had been 1320 "burgenses;" at the time of the survey there were only 665 "burgenses anglici;" some 32 "burgenses" had gone to neighbouring villages; while, on the other hand, a new borough had grown up in which there were 36 French and 6 English "burgenses." But in addition to these there are 480 "*bordarii* qui propter pauperiem nullam reddunt consuetudinem." It is not clear whether this is to be interpreted as meaning that there had always been a population of "bordarii," or whether they were "burgenses" deprived of their holdings. In the former case they would form a third of the population; and if there were a similar condition of things elsewhere, we should have to add some 41,000 to 125,000, producing a total of 166,000 for the town population in its most flourishing time before the Conquest.

4. Freeman, *Norman Conquest*, v. 233.

5. See, for a typical example, Freeman, *Cathedral Church of Wells*, 3, 143, and 184, n. 35.

6. See Carlyle, *Past and Present*, bk. ii., ch. v., for the difficulties the Cellarer of S. Edmundsbury had in collecting *repselver*. Cf. the case of Cambridge, where "burgenses T.R.E. accommodabant vicecomiti carrucas suas ter in anno; modo novem vicibus exiguntur;" *Domesday*, i. 189; and Leicester, where certain payments originally rendered in lieu of reaping were given up by the Earl at the end of the twelfth century; Thompson, *Leicester*, 51.

7. Cf. Turner, *Anglo-Saxons*, iii. 114.

8. Green, *Conquest of England*, 440–452.

9. Turner, 113. This is a good illustration of the fact that trade, as an independent occupation, grew up first in the service of luxury; cf. Lexis in Schönberg, *Handbuch d. Politischen Oekonomie*, 1021.

10. The word *ceapman* occurs only three times; Schmid, *Gesetze der Angelsachsen*, Glossar.

11. See Freeman, *Norman Conquest*, v. 806.

12. See Pearson, 381.

13. Gross, *Gilda Mercatoria*, 35. The town charters usually contain some such clause as, "Et quod nullus qui non sit de gilda illa mercandisam aliquam faciat in predicta civitate, vel in suburbio, nisi de voluntate eorundem civium." The charter of Henry II. to Oxford runs, "Sciatis me concessisse . . . *civibus* meis in Oxenforde omnes libertates . . . quas habuerunt tempore regis Henrici avi mei, nominatim gildam suam mercatoriam . . . ita quod aliquis qui non sit de gildhalla aliquam mercaturam non faciet in civitate vel suburbiis;" Stubbs, *Select Charters*, 167.

14. Gross, 63. See, however, now *infra*, pt. ii. p. 44.

15. *Ib.*, 53. The penalty imposed on a gild brother in Stamford for refusing to let another share in a purchase was, "He shall neither buy nor sell in that year except victuals."

16. *Ib.* Even in the little town of S. Edmundsbury the members of the merchant gild demanded payment of toll from all non-members selling in the market; *Chron. Jocelin de Brakelond*, 74; see also n. 27 below.

17. Thompson, *Hist. of Leicester*, 30.

18. "Es lässt sich nach germanischen Ideen keine Genossenschaft ohne genossenschaftliche Gerichtsbarkeit denken;" Maurer, *Gesch. der Städteverfassung*, ii. 389.

19. The actual terms used are *morcenspeach*, *morgespreche*, *morrowspeche*, *marwinspeche*, *morrowspeche*. It is not certain whether these are to be interpreted as *morning*-speech or *morrow*-speech, as meetings on the

morning of feast-days, or on the morrow of feast-days. The former interpretation is rendered the more probable by such modern analogies as college "chapter-days;" and by the use of *maneloquium* at Andover; *Proofs and Illustrations*, p. 10, to Gross's (forthcoming) *Gild Merchant*. *Morgensprache* was the general term in Germany; Maurer, iii. 382.

20. Stubbs, *Const. Hist.*, i. 469; Kemble, *Saxons*, i. 511.

21. The "cnichten on Cantwareberig of *ceapmannegilde*" appear during Anselm's primacy (1093–1109); Gross, 32, n. 1.

22. Gross, 37, seq.

23. This is in the well-known passage stating that under certain conditions a villein remaining in a town for a year and a day became free. But it will be noticed that Glanvill only says this is the case when the villein obtained the full rights of a burgher; and we shall see later, that there was in most towns a considerable body of inhabitants who were not burgesses: "Si quis nativus quiete per unum annum et unum diem in aliqua villa privilegiata manserit, *ita quod in eorum communam, scilicet gildam, tanquam civis, receptus fuerit*, eo ipso a villenagio liberabitur;" *Select Charters*, 162. The rights of burgess are moreover definitely stated in one of the town charters to be conditional on the possession of land in the town: "Si aliquis nativus alicujus in civitate manserit, *et terram in ea tenuerit et fuerit in gilda et hansa* et scot et lot cum eisdem civibus nostris per unum annum et unum diem, deinceps non possit repeti a domino suo sed in eadem civitate liber permaneat;" Gross, 35.

24. Gross, *Gilda Mercatoria*, 46, 47. Thompson, *Leicester*, 30, seq.

25. This was in 1260; *Report Hist. MSS. Commission*, iii. (1872), 342.

26. Thus the names of those admitted at Leicester include a carpenter, a farrier, a miller, a baker; Thompson, 54.

27. All these points are illustrated by the rolls of Totnes, Leicester, and Southampton (Davies, *Hist.*, 140, seq.). Notice especially the entry at Totnes: "Be it remembered that Rob. Fina was put upon the roll by Lucy his wife, so long as the said Lucy should live; and if he should survive her, he was to *have the said gild* until such time as he should marry again, and no longer." On the other hand, the statutes of Southampton, §§ 9, 10, limit the right of inheritance to a seat to an elder son or a nephew succeeding to his uncle's property: a younger son must pay ten shillings, and a man cannot obtain a seat through his wife, nor by purchase or donation from a member. It can be readily understood that at a considerable port a small number of merchants might easily get control of the gild, and make membership the exclusive right of a certain number of families.

28. Thus, in the Leicester roll of 1198, it is added after the names of

some of the new members, "Et habet sedem patris;" Thompson, *Leicester*, 53. There is an entry in a Totnes roll, "Robert Fela sits below the seat of Jordan de la Stocke, on the gift of the said Jordan, the fordele (entrance-fee) paid," and written above is the note, "He withdrew and surrendered the freedom to the commonalty, and *now pays toll*."

29. Southampton, § 6 in Davies, *Hist. Southampton*, 140. Hence the odd phrase, "Bevre (= boire) gilde markande;" Gross, 49.

30. Thus the abbot and convent of Buckfastleigh were admitted at Totnes, in 1236. Cf. Ipswich, in Gross, 57.

31. See the second quotation in n. 23 above. In an Exchequer roll of John, David the dyer of Carlisle is recorded as paying a mark in order that the messuage which he has in Carlisle may be a burgage, "Et quod ipse habeat easdem Libertates quas alii Burgenses de Kaerleolo;" Madox, *Exchequer*, 278. We are led to believe that the possession of land was the condition of membership even where the language of charters would seem to imply the opposite. Thus the charter of Henry II. to Lincoln says that if a man dwell for a year and a day in Lincoln unclaimed "et dederit consuetudines," he is to remain in peace "sicut civis meus;" *Select Charters*, 166. Yet in the reign of John, when the fullers and dyers of Lincoln complained of a seizure of their cloth by the aldermen and reeves, claiming the right of dyeing as they pleased as free citizens of Lincoln, the aldermen and reeves declare that the craftsmen "non habent legem vel communiam cum liberis civibus;" *Placitorum Abbreviatio* (ed. 1811), 65; Ashley, *English Woollen Industry*, 23. Cf. for Flanders, Vanderkindere, *Le Siècle des Artevelde*, 63.

32. *E.g.* Thompson, *Leicester*, 51. Swine and oxen seem to have been reared within the city of London far into the thirteenth century; *Liber Albus*, xli.–xlii.

33. *E.g.* Berwick Statutes, § 20; *English Gilds*, 342.

34. Gross, 55.

35. Ashley, *English Woollen Industry*, 19–24.

36. Thus in a charter of Henry II. to Chichester: "Nullus in civitate Cicestr' vendat pannos per detaillum nisi sit de gilda mercatoria;" Gross, 54. Among the "customs" of Newcastle (temp. Henry I.) was one that none save a burgess could buy, make (*i.e.* finish), or cut cloth for dyeing; *Select Charters*, 112.

37. 1261. Thompson, 89.

38. Davies, *Southampton*, 140, § 11; for Berwick, Houard, *Coutumes Anglo-normandes*, ii. 471, § 12.

39. Davies, § 24; *English Gilds*, 345, § 37.

40. Davies, § 21; Thompson, 78, 79.

41. This is especially illustrated by the documents analyzed in Thompson. One Roger Alditch gave them much trouble. He was turned out of the gild for attaching vermilion cloth of a low quality to a piece of good manufacture, and for two other previous offences; was re-admitted after a year and a day on paying a fine and finding sureties; and some time later was again in trouble for sending to a purchaser worse cloth than had been shown when the bargain was made, pp. 68, 77, 81. On one occasion the mayor and several of the gild brethren were amerced in a measure of ale for fraudulently colouring wool; p. 78.

42. These are illustrated by the Berwick and Southampton statutes. The Berwick provision for an orphan daughter (§ 10, Houard, ii. 471) is amusing: "Si quis confratrum nostrorum Gildae relinquat post obitum suum filiam ex uxore conjugata, qui sit laudabilis conversationis, et bonae famae, et non habeat de proficiis unde sibi providere valeat de viro, aut si in domo religionis caste vivere voluerit, secundum aestimationem et dispositionem aldermanni, decani, et confratrum, secundum facultatates Gildae, *sibi de viro vel de domo religionis provideatur.*" The clause is headed, "De relevatione filiarum Gildae."

43. For a comparison of the conditions of industry under what have been distinguished as the family system, the gild system, the domestic system and the factory system, see Thun, *Die Industrie am Niederrhein*, ii. 246; Held, *Zwei Bücher zur Socialen Geschichte Englands*, 541; and cf. Ashley, *English Woollen Industry*, 71–75.

44. *Wealth of Nations*, bk. iii. ch. i.

45. See for the extreme view tracing such organizations to Roman constitutions, Gasquet, *Précis des Institutions de l'Ancienne France*, ii. 233–243.

46. This is the view taken by Brentano, in his *Essay* prefixed to *English Gilds* (Early Engl. Text Soc.); and shortly restated in his *Arbeiterverhältniss gemäss dem heut'gen Recht*, 13–42.

47. Bp. Stubbs says cautiously, "The struggles between the patrician burghers of the merchant-guild, and the plebeians of the craft-guilds, which mark the municipal history of Germany, have no *exact* parallel in England;" *Const. Hist.*, i. 474 (Libr. Ed.). Mr. Cunningham more boldly declares that "there is *no evidence whatever* of oppression by the richer classes, or of artisan opposition to them;" *Formation and Decay of Craft Guilds* (*Trans. Royal Hist. Soc.*), p. 11.

48. Ochenkowski, *Englands Wirthschaftliche Entwickelung*, 55, 74–79.

49. See n. 31 above. Bp. Stubbs believes that "the merchant-guild contained all the traders, whether or no they possessed an estate of land;" *Const. Hist.*, 474: but there seems no evidence for so general a proposition.

50. This was the case certainly at Winchester, Marlborough, and Beverley. *Liber Custumarum* (Rolls' Series), 60, 130, 1. Cf. the Flemish towns in Warnkönig, *Hist. de Flandre* (trans. Gheldolf), ii. 208, seq. 506, seq.; Gilliodts, *Inventaire des Archives de Bruges*, iv. 272, seq.

51. Stubbs, *Const. Hist.*, iii. 608–610.

52. "Bolengarii debent i. marcam et vi. uncias auri;" *Pipe Roll*, 5 Henry II.; Madox, *Hist. of the Exchequer*, 231.

53. Cf. Ashley, *English Woollen Industry*, 13, 14.

54. *Rotulus magnus Pipae* (ed. Record Comm., 1833), 144, 2, 109. For the Oxford weavers and corvesars, see Boase, *Oxford*, 36, 37.

55. "Eo tempore quo promissionem dictae marcae auri fecerant Tellarii predicti erant numero sexaginta et plures in villa praedicta, et ipsi jam ad tantam inopiam devenerint quod vix sint numero quindecim;" Madox, *Exchequer*, 232.

56. An Inspeximus of Henry III., printed in *Archaeol. Journal*, vi. 146, recites a charter of Henry II. confirming the rights enjoyed by the "corversarii," in the time of Henry I., "Ita quod nullus faciat officium eorum in villa de Oxon' nisi sit de Gilda illa."

57. *The Great Rolls of the Pipe*, 2–4, *Henry* II. (ed. 1844), 39, 90, 153. For York, *Close Rolls* (ed. 1833), i. 421.

58. Madox. *Exchequer*, 390. I have borrowed a few sentences from my paper on the *Woollen Industry*, 16, seq.

59. "Sciatis me concessisse Telariis Londoniarum Gildam suam in Londoniis habendam cum omnibus libertatibus quas habuerunt tempore regis Henrici avi mei; et ita quod nullus *nisi per illos* se intromittat infra civitatem de eo ministerio, et *nisi sit de eorum Gilda*, neque in Sudwerke neque in aliis locis Londoniis pertinentibus;" *Liber Custumarum*, 33. In the case of York no one was to make cloth *in the county* save with the consent of the weavers of that city; see writ of Henry III. ordering the sheriff to enforce this rule, in *Close Rolls*, i. 421. Cf. note 56, above.

60. Stubbs, *Const. Hist.*, i. 704.

61. The list of charters in the *Liber Albus*, 134 (vol. i. of *Mun. Gildh.*), mentions, "alia charter equidem Joannis, quod Gilda Telaria non sit de cetero in civitate Londoniarum, nec ullatenus suscitetur:" the copy in the *Liber Custumarum* of Henry II.'s charter to the weavers has the joyful heading, "Quae adnihilata est per chartam Regis Joannis. The *Pipe Roll* of 4 John contains the entry, "Cives Londoniae debent lx. marcas pro Gilda Telaria delenda, ita ut de cetero non suscitetur;" Madox, *Exchequer*, 279.

62. *Liber Custumarum*, Riley, *Introd.* lxiii.

63. See notes 13, 36, above.

64. 60, 130, 131. Riley, *Introd.* lxi. See *Engl. Woollen Industry*, 20–22.

65. "Ne nul franke homme ne puet estre atteint par telier ne par fulour; ne il ne poent tesmoign porter," in almost identical words in each case.

66. "Ces est a savoir, qe nul telier ne nul fuloun ne puet drap secchir ne teindre, ne a nul marchandise hors de la ville aller," at Winchester and Beverley. "Il ne poent a nul forein lour draps vendre, fors as marchauns de la cite," at Winchester.

67. The necessity of obtaining consent is mentioned for Oxford. "Ne nulle ne puet tistre (tisser) ne overer (ouvrer, O.F.) fors as prudeshommes de la vile," at Marlborough.

68. Thompson, *Hist. of Leicester*, 84.

69. *Statutes of the Realm*, i. 269. [See also bk. ii. ch. 1, § 25.]

70. Gross, *Gilda Mercatoria*, 87.

71. *Liber Custumarum*, 121, 126. Nominally the mayor had the right to preside over the weekly court: "Et si le meire ne y soit, il deit assigner quatre prodeshommes du mester jurez . . . a tenir la Court: les queux quatre soient chescun an remuables a la volunte du mester, et deyvent estre chescun an presentez au Meyre;" Art 3. The cognisance of the court was declared to extend to "placita debiti, contractus, conventionis, et parvae transgressionis" by a jury empanelled in 14 Ed. II.; *ib.*, 422.

72. List in Herbert, *Livery Companies*, 34.

73. Freeman, *Exeter*, 168.

74. "Edward I. seems to have encouraged the development of the guild jurisprudence, and may have been induced to do so by his hostility to the magnates of the commune;" Stubbs, *Const. Hist.*, iii. 618.

75. This is a phrase frequently used; *e.g.* Articles of the Heaumers, or Helmet-makers, 1347, in Riley, *Memorials of London*, 237. From the Articles of the Pouch-makers, 1371, *ib.*, 360, it would seem that a craft might have ordinances not authorized by the municipal authorities. They pray the mayor and aldermen "whereas they have some Articles of their trade before you enrolled; and some Articles of that trade which are very profitable to the common profit of the people are *not as yet enrolled*, it will please you to accept these Articles to be enrolled."

76. *Ib.*, 280, 358. So also the Forcer (or casket) makers pray, in 1406, that they may have power to elect two wardens annually, because "divers folk of the said trade . . . do make forcers of false and rotten wood;" *ib.*, 563.

77. *E.g.* the ordinance of the Braelers, or Bracemakers, in 1355,—"If any one shall be found making *false work*, let the same work be brought before the mayor and aldermen, and before them let it be adjudged upon

as being false and forfeited; and let such person go bodily to prison;" *Memorials*, 278.

78. *E.g.* the Articles of the Cutlers in 1344,—"As to all those of the said trade who do not wish to be judged by the wardens of the trade for the time being, the names of such shall be presented to the mayor and aldermen, and by them they shall be judged;" *ib.*, 218.

79. *Ib.*, 242; 259 (evidence of the wardens accepted as to false salt-cellars); 440, § 7.

80. The general theory, as to their own powers over the crafts, held by the municipal authorities was stated in an argument presented by the mayor and aldermen of London in 1583 against a patent recently granted to the Tallow-chandlers: "The mayor and aldermen of the city and all other the chief governors thereof, and their predecessors, always, time out of mind, had and used to have the view, search, and direction of all mysteries and crafts within the city, for and concerning all manner of deceits and defaults in all things touching these mysteries, which was to be proved as well by the daily usage as also by a great number of records and precedents of the said city;" Strype's *Stowe*, ed. 1720, ii. 211; Herbert, *Livery Companies*, i. 47. [On the whole subject now see bk. ii. ch. 2.]

81. See, among many other examples, *Memorials*, 91, 118, 146, 178, 234, 239.

82. *Ib.*, 233; 440, §§ 8, 9.

83. *Ib.*, 227, bottom, 237, 245. For an example of *expulsion* for absence without reasonable cause from the annual assembly for the third time, 233; for working at night for the third time, 239.

84. *Ib.*, 217, 218, 227, 238, 242, 244. That it was only beginning to be necessary in 1347 is shown by the ordinance of the White Tawyers (234), "that no one who has not been an apprentice and has not finished his term of apprenticeship in the said trade, shall be made free of the same trade; *unless* it be attested by the overseers for the time being, or by four persons of the said trade, that such person is able and sufficiently skilled to be made free of the same."

85. For the position of serving-men, *ib.*, 219, 227, 238, 244. The ordinances of the Bracemakers, 1355, insist, not that journeymen shall have served an apprenticeship, but that they shall be "first proved and assayed by the masters of the same trade as being skilled in their trade;" 278.

86. The Bowyers, *ib.*, 348.

87. Ochenkowski, 110 n., 135. For a possible exception among the Fishmongers, see *Liber Albus*, 383.

88. *Memorials*, 121, 153, 259, 364.

89. *Ib.*, 217, 226, 239, 243, 245. Cf. Ochenkowski, 73, who however

mentions one exceptional case, that of the Cappers, whose articles contain the clause, "Quod nullus eorum operetur de nocte sed de die: et pro utilitate et commoditate pauperum illius officii (craft), cum multi sunt, concessum est;" *Liber Custumarum*, 101, § 4.

90. *Memorials*, 218, 278, 307.

91. *Ib.*, 217, 278.

92. *Ib.*, 232; *English Gilds*, 179.

93. See *Engl. Woollen Industry*, 45–53, 75–84.

94. Cf. Schönberg, *Zur wirthschaftlichen Bedeutung des Deutschen Zunftwesens* (Hildebrand's *Jahrbücher*), viii. 14. Compare modern definitions of "market" in Jevons, *Theory of P. E.*, 90, and Bagehot, *Economic Studies*, 104.

95. Cf. Schönberg, 30.

96. The Cutlers and Bladesmiths ask in 1408 that certain rules may be enforced "for preserving the character of the two trades;" *Memorials*, 569.

97. "It is the general rule of law that no warranty of the quality of a chattel is implied by the mere fact of sale. The rule in such cases is *caveat emptor*, by which is meant, that when the buyer has required no warranty he takes the risk of quality upon himself, and has no remedy if he chose to rely on the bare representation of the vendor, unless, indeed, he can show that representation to be fraudulent;" Benjamin, *On Sale*, 606.

98. *Memorials*, 341.

99. *Statutes at Large*, ed. 1735, i. 297.

100. *Liber Albus*, 742. Cf. *Woollen Industry*, 56–58.

101. *Memorials*, 341, 539.

102. *Liber Custumarum*, Introd. lviii. lxv.

103. Hunt, *Bristol*, 52.

104. Cf. *Woollen Industry*, 73, 74.

105. Held, *Zwei Bücher zur Socialen Geschichte Englands*, 571.

106. *Select Charters*, 474.

107. Chalmers, *Local Government* (English Citizen Series), 134.

108. *Memorials*, 291.

109. *Ninth Report, Hist. MSS. Comm.*, 285.

110. Jusserand, *Vie Nomade*, 30, 31.

111. Rogers, *Six Centuries of Work and Wages*, 137.

112. Jusserand, 66.

113. *Chronicon Monasterii de Abingdon* (Rolls' Series), ii. Preface, lxxv.–lxxix.

114. On the authority of Boase, *Oxford*, 14.

115. *Ib.*, 57, 58.

116. See Rogers, *Six Centuries*, 149, seq.

117. The following account is taken from Dean Kitchin's valuable introduction to the *Charter of Edward III. for S. Giles' Fair*, 1347, *Winchester Cathedral Records*, No. 2, 1886.

118. "Quod corvesarii, sutores, vel alii operarii sive artifices quicunque in predicta civitate alibi quam in eadem feria operationes seu opera sua sub forisfactura eorundem non exercebunt nec vendere possunt nec aliqui ea emere debent;" *Charter of* 1347, ed. Kitchen, 38.

119. *Ib.*, 54.

120. "Omnia placita debitorum inter mercatores quoscunque durante feria tenebuntur et totis temporibus retroactis teneri consueverunt coram prefatis Justiciariis *per probationes talliarum*, secundum legem mercatoriam, si pars querens hoc voluerit;" *ib.*, 32.

121. For the three Oxford fairs, see Boase, 71.

122. *Statutes of the Realm*, i. 260, 266.

123. "Rex intendit, quod mercatores extranei sunt ydonei et *utiles magnatibus* et non habet consilium eos expellandi;" *Rot. Parl.*, 1. 55; quoted in Schanz, *Englische Handelspolitik*, i. 390, n.

124. Schanz, i. 386.

125. *Liber Custumarum*, 64.

126. *Rot. Parl.*, i. 55; qu. Schanz, i. 389, n. 8.

127. *Rot. Parl.*, i. 87, 93; qu. Schanz, i. 396, n. 3.

128. *Calendar of Letters* from Mayor and Corporation of London, p. 2 (Colchester), 11 (Ghent), 11 (Bruges).

129. *Ib.*, 2 (Florence), 17 (Gloucester), *et passim.*

130. The first mention of the Hanse of London is in a charter of Bruges, 1240, Warnkoenig, *Histoire de Flandre*, trans. Gheldolf, ii. 207.

131. Schmoller, *Strassburger Tucher und Weberzunft*, 366.

132. Lappenberg, *Urkundliche Geschichte des Hansischen Stahlhofes zu London*, bk. 2. This is not the later Steelyard; late in the thirteenth century the guildhall of the Cologne merchants and that of the Teutonic (*i.e.* Baltic) merchants were still distinct; Riley, Introd. to *Liber Albus*, xcvi.

133. See the brief history of the Hanse, by Mr. Lodge, in *Ency. Brit.*

134. See Pauli's article in *Pictures of Old England.*

135. Ochenkowski, *Englands Wirthschaftliche Entwickelung*, 194, 195.

136. Cunningham, *Engl. Industry*, 178, n. 2.

137. Ochenkowski, 187–201.

CHAPTER III.

ECONOMIC THEORIES AND LEGISLATION.

[Authorities.—For mediæval theories as to property, industry, and trade, and the duties of Christians in relation to them, the chief authority is the *Corpus Juris Canonici.* Many of the rules which it contains were expressly intended for the guidance of ecclesiastical courts; but at least an equally large part of its contents must be regarded rather as the expression of opinion than as law which could actually be enforced. But as all its decisions, whatever may have been their original source, were confirmed by successive pontiffs, they could not fail to influence the more conscientious clergy in their treatment of social questions, especially in the pulpit and confessional. Of the Canon Law the first and most important half was made up of the *Decretum* of Gratian, a monk of Bologna, who, inspired by the revived study of the civil jurisprudence, aimed at putting together a body of ecclesiastical law derived from the writings of the Fathers, canons of councils, Frankish capitularies, papal letters or decretals, and penitentials, which should bear the same relation to ecclesiastical jurisprudence as the codification of Justinian to secular jurisprudence. His work, composed about the middle of the twelfth century, contained no papal decisions later than 1139. Accordingly Gregory IX. issued, in 1234, a compilation from subsequent decisions, known as the *Decretals of Gregory IX.*; Boniface VIII. added to these, in 1298, the *Liber Sextus*; and John XXII., in 1317, the *Clementinae.* During the fifteenth century, collections of decretals omitted from the *Clementinae* or issued later, were made by canonists; and two such, the *Extravagantes Joannis XXII.* and the *Extravagantes Communes*, were admitted to equal authority with the earlier works, by being published with them by Gregory XIII. in 1582. For a more detailed account of the Canon Law, see the article under that title in the *Encyclopædia Britannica*, vol. v., and as to the extent to which the Canon Law was received in England, see two lectures in Stubbs, *Lectures on Mediæval and Modern History* (1886), and the criticism of them in the *Dublin Review*, October, 1887.

The best modern works on the economic doctrines of the Canon Law are those of W. Endemann, *Die Nationalökonomischen Grundsätze der*

Canonistischen Lehre, published in Hildebrand's *Jahrbücher für Nationalökonomie*, vol. i., and afterwards separately (1863), and *Studien in der Romanisch-canonistischen Wirthschafts und Rechtslehre* (vol. i., 1874; vol. ii., 1883). Invaluable for their learning and completeness, the usefulness of these works is lessened by the slight attention which the author pays to the historical development of the teaching he is criticizing. He is too much inclined to systematize, and follows too closely the canonists of the sixteenth and seventeenth centuries, especially Scaccia, in the reasons they assign to, and the deductions they draw from, the simple prescriptions of the early Canon Law. W. Roscher has a very brief but admirable section on the Canon Law in the introduction to his *Geschichte der Nationalökonomik in Deutschland* (1874). Mr. Cunningham is the only English writer who has called attention to the true character and significance of mediæval economic ideas,—in his *English Industry and Commerce* (1882), §§ 36, 43, 45, and *Politics and Economics* (1885), ch. 2; and, still better, with especial regard to Usury, in a paper, *City Opinion on Banking in the Fourteenth to the Seventeenth Centuries*, in the *Journal of the Institute of Bankers*, February, 1887. His *Christian Opinion on Usury* (1884) is unfortunately out of print. But long before other writers had touched the subject, Karl Knies, in the half-dozen pages devoted to the subject in his *Politische Œkonomie vom Standpuncte der Geschichtlichen Methode* (1853), had gone to the root of the matter, and shown the relative justification of what had hitherto been ascribed merely to "ignorance of Political Economy" (pp. 115–120 of the new edition, 1883, under the title *P. E. vom Geschichtlichen Standpuncte*). The teaching of Aquinas has been commented on by several modern writers, especially by Contzen; but it can be more clearly understood from the *Summa Theologica* itself, under *Quaestiones*, lxxvii., lxxviii., in the second division of the second part. Some useful historical information on Usury is given by Roscher in the notes to his *Political Economy*, bk. iii., ch. iv., §§ 190, 191 (trans. Lalor, Chicago, 1878; ii., p. 128).

There is no good account of early legislation on economic matters: the enactments themselves are all printed in the first volume of the *Statutes of the Realm*, and with them must be compared the municipal regulations in the *Munimenta Gildhallae*, ed. Riley; and the ordinances of the crafts, there and in Riley's *Memorials of London*. For the history of royal policy with regard to the currency, see Keary, *Introd. to Catalogue of Eng. Coins in Brit. Mus.*, I. (1887), and Ruding, *Annals of the Coinage* (3rd edit., 1840), and for foreign trade, Hubert Hall, *The Customs Revenue of England* (1885). Most of the authorities referred to in the previous chapter are also useful here.]

§ 15. The social development with which hitherto we have been dealing may, in a sense, be called *spontaneous*; we have now to see how the forces of Church and State took hold of the growing society, and attempted to control its activity. The nature of this attempt, however, can only be understood when we have examined the ideas by which it was prompted.

The teaching of the Gospel as to worldly goods had been unmistakable. It had repeatedly warned men against the pursuit of wealth, which would alienate them from the service of God and choke the good seed. It had in one striking instance associated spiritual perfection with the selling of all that a man had that he might give it to the poor. It had declared the poor and hungry blessed, and had prophesied woes to the rich. Instead of anxious thought for the food and raiment of the morrow, it had taught trust in God; instead of selfish appropriation of whatever a man could obtain, a charity which gave freely to all who asked. And in the members of the earliest Christian Church it presented an example of men who gave up their individual possessions, and had all things in common.[1]

We cannot wonder that, with such lessons before them, a salutary reaction from the self-seeking of the pagan world should have led the early Christian Fathers to totally condemn the pursuit of gain. It took them further—to the denial to the individual of the right to do what he liked with his own, even to enjoy in luxury the wealth he possessed. "What injustice is there in my diligently preserving my own, so long as I do not invade the property of another?" "Shameless saying!" says S. Ambrose. "*My own*, sayest thou? what is it? from what secret places hast thou brought it into this world? When thou enterest into the light, when thou comest from thy mother's womb, what

wealth didst thou bring with thee? . . . That which is taken by thee, beyond what would suffice to thee, is taken by violence. Is it that God is unjust, in not distributing to us the means of life equally, so that thou shouldst have abundance while others are in want? Or is it not rather that He wished to confer upon thee marks of His kindness, while He crowned thy fellow with the virtue of patience. Thou, then, who hast received the gift of God, thinkest thou thou committest no injustice by keeping to thyself alone what would be the means of life to many? . . . It is the bread of the hungry thou keepest, it is the clothing of the naked thou lockest up; the money thou buriest is the redemption of the wretched."[2]

The highest moral and legal philosophy of the ancient world strengthened this purely religious feeling, by bringing to its aid the doctrine of a "law of nature." Sir Henry Maine has shown how this conception had arisen, and how it had influenced Roman law; he has pointed out how that, in spite of its profound influence on men's minds, jurisconsults were by no means agreed, either as to whether there ever had been a state of nature in the past, or as to the precise tests by which to distinguish those institutions in the present which accorded with natural law. But there were two principles on which they were all agreed, and which they succeeded in impressing upon the minds of educated men: first, that the characteristics of nature were simplicity and similarity; and secondly, as the main consequence of this, that all men were by nature equal.[3] Christian writers and preachers drew from these principles a conclusion which the lawyers seem to have carefully avoided,—the conclusion that private property was contrary to nature. Hence it was that, while the ecclesiastical law of the later Middle Ages, the *Corpus Juris Canonici*, began by distinguishing natural law from

civil law in almost the very words of Justinian's *Institutes*, it went on to add to marriage and the nurture of children, which are the only definite examples of natural law there given, community of goods, and personal liberty.[4] "The use of all that is in the world," says Clement, "ought to be common to all men. But by injustice one man has called this his own, another that, and thus has come division among mortals."[5]

This view as to the origin of property gave Christian moralists a philosophical basis for their teaching. To seek to enrich one's-self was not simply, they could argue, to incur spiritual risk to one's own soul; it was in itself unjust, since it aimed at appropriating an unfair share of what God had intended for the common use of men. If a man possessed more than he needed, he was bound to give his superfluity to the poor; for by natural law he had no personal right to it; he was only a steward for God. And with Christian teachers such injunctions were no longer mere philosophical deductions: they came with all the weight of practical precepts, pointing to duties to be observed and sins to be avoided on pain of punishment in another world.[6]

If, however, to seek to enrich one's-self was sinful, was trade itself justifiable? This was a question which troubled many consciences during the Middle Ages. On the one hand the benefits which trade conferred on society could not be altogether overlooked, nor the fact that with many traders the object was only to obtain what sufficed for their own maintenance. On the other hand they saw that trade was usually carried on by men who had enough already, and whose chief object was their own gain: "If covetousness is removed," argues Tertullian, "there is no reason for gain, and, if there is no reason for gain, there is no need of trade."[7] Moreover, as the trader did not seem himself to add to the value of his wares, if he gained more for them than he

had paid, his gain, said S. Jerome, must be another's loss; and, in any case, trade was dangerous to the soul, since it was scarcely possible for a merchant not sometimes to act deceitfully.[8]

To all these reasons was added, by many of the more saintly churchmen, yet another, which, had it been listened to, would have put an end to secular activity altogether. The thought of the supreme importance of saving the individual soul, and of communion with God, drove thousands into the hermit life of the wilderness, or into monasteries; and it led even such a man as Augustine to say that "business" was in itself an evil, for "it turns men from seeking true rest, which is God."[9] It needed no little courage for more sober churchmen, such as Leo the Great, to reply that it is the way in which a man carries on his trade that determines whether it is good or bad, since gain may be honourable as well as dishonourable.[10] Yet there were valid reasons for treating clergy and laity differently; and accordingly ecclesiastical legislation early prohibited the clergy from engaging in trade; if they must needs turn their attention from divine duties in order to provide food and clothing for themselves, it should be to agriculture or handicraft; in these, at any rate, they would produce some useful thing, and they would be free from the temptations which commerce would put in their way.[11]

Such was the general character of the teaching of the Church on economic matters during the early Middle Ages. It would be unprofitable here to consider how far such teaching might be beneficial or hurtful under modern circumstances; nor, since we are now dealing only with the social history of the eleventh and succeeding centuries, need we consider whether it was altogether justified in the age when it was first urged upon men's consciences. Certainly the

condition of western Europe long after the establishment of the Teutonic kingdoms was such that it could do but little harm, and probably did great good. It could do little harm, because there was scarcely any commerce, and such commerce as there was was directed to the supply of articles of luxury for princes and nobles. The condemnation of trade therefore, if indeed the clergy continued to repeat it, might weigh hardly upon individuals, but did not impede any useful circulation of goods. And by stimulating the clergy to rebuke the greed and violence of the powerful, by creating a public opinion on the side of contentment and charity, the teaching of the Church on worldly goods could not fail to be beneficial.[12]

In the eleventh century began a great moving of the stagnant waters. The growth of towns, the formation of merchant bodies, the establishment of markets,—even if they did no more than furnish the peasant and the lord of the manor with a demand for their surplus produce, brought men face to face with one another as buyer and seller in a way they had not been before. But they did more; they prepared the way for the growth of a new class, a class of craftsmen, who could exist only on condition that they were able to sell their manufactures. At the same time, new needs for money appeared both in the crusades and in the passion for church-building, which the religious revival of the tenth century brought with it. Hence economic questions, especially such as concerned the relations of seller and buyer, of creditor and debtor, became of the first importance.

To deal with these new questions a new jurisprudence presented itself,—the jurisprudence based on the revived study of Roman law, which can be traced in Italy towards the end of the eleventh century, and which found a centre for itself in Bologna. The teaching of the founder of the

Bolognese school of "glossators," Irnerius, and of his successors "the four doctors," attracted crowds of pupils; knowledge of Roman law became so profitable that the study of theology was almost abandoned, and council after council in the twelfth century had to prohibit the study of secular law to the clergy.[13] Now, the Roman law, in the finished form in which the codification of Justinian presented it, rested on a theory of absolute individual property which was entirely alien to the usages of early Teutonic peoples, among whom community of ownership, or at any rate community in use, was still a prevalent custom; and it recognized an unlimited freedom of contract, which may have been suitable to the active commerce of the Mediterranean, but was sure to be the instrument of injustice when appealed to in the midst of more primitive social conditions.[14]

These considerations are scarcely weakened, in the case of England, by the customary statement that Roman law was never recognized in this country. If not actually quoted from the bench, it was always in the minds of lawyers for guidance or comparison. Stephen's order did not succeed in putting an end to the study of civil law which Vacarius introduced at Oxford.[15] The writers of text-books, such as Bracton, made large use of the civil law, and the judges of the twelfth and thirteenth centuries, there can be little doubt, frequently consulted it for principles to guide their decisions.[16] Maritime law also was, as we know, largely borrowed from the Roman jurisprudence; and this was so intimately bound up with the interests of the mercantile community that we cannot suppose other questions arising from trade to have been unaffected by it.

With these new dangers before them, churchmen began once more to turn their attention to economic matters, and to meet what they regarded as the evil tendencies of the Roman

law, "the principle of the world," by a fresh application of Christian principles. On two doctrines especially did they insist,—that wares should be sold at a just price, and that the taking of interest was sinful. They enforced them from the pulpit, in the confessional, in the ecclesiastical courts; and we shall find that by the time that the period begins of legislative activity on the part of the secular power, these two rules had been so impressed on the consciences of men that Parliament, municipality, and guild endeavoured of their own motion to secure obedience to them.

§ 16. What Christian morality, as represented by its highest teachers, aimed at was not merely the prevention of obvious injustice or deceit, but the fulfilment of the law of Christ, "Whatsoever ye would that men should do unto you, do ye also unto them."[17] In nothing was the contrast between this precept and the conduct sanctioned by the civil law more evident than in purchase and sale. Was a man to be satisfied with his conduct, if, in selling an article, he got the highest price a purchaser was willing to pay, so long only as he did not fraudulently mislead him as to the character of the ware; or was he to aim at some standard of fair price, such as he himself would be willing to abide by if he were himself a purchaser? The principle recognized by the Roman law had been that price was entirely a matter to be determined by free contract. It left the two contracting parties entirely free to agree upon a price at their own risk, subject only to the limitation that the seller was bound to reveal faults interfering with the proper enjoyment of the thing sold. This was stated very clearly by the legist Paulus, early in the third century: "In buying and selling, a man has a natural right to purchase for a small price that which is really more valuable, and to sell at a high price that which is less valuable, and each may seek to overreach the other." The last clause but

echoes the dictum of Pomponius, a legist of the previous century: "In purchase and sale it is naturally allowed to the contracting parties to try to overreach one another."

Both these utterances were quoted as authoritative in Justinian's digest.[18] And it is very noticeable that the one limitation admitted by Roman law to the application of this principle, a limitation introduced by a rescript of Diocletian, aimed only at protecting the *seller*. It was enacted that when a thing was sold for less than half its value, the seller could recover the property unless the buyer chose to make up the price to the full amount. It was, indeed, contended by many later jurists that this applied only to land, because the instance actually given in the rescript is a farm; and it seems probable that it was intended to meet a special need, to remedy injustice caused by forced sale.[19] It is referred to by the Fathers as showing that even the civil law limited freedom of contract in an extreme case; but this scarcely weakened the impression which the civil law produced, that buyer and seller were free to make what bargain they could. Against this the Church held out the opposite ideal, that of "a just price" unaffected by the temporary caprice or need of either party. The phrase itself seems to occur first in S. Augustine of Hippo, and he illustrates it by what to us to-day may seem an extreme example: "I know a man who, when a manuscript was offered him for purchase, and he saw that the vendor was ignorant of its value, gave the man the just price though he did not expect it."[20]

We shall understand better how the doctrine was taken hold of and developed by the theologians and canonists of the twelfth and thirteenth centuries, if, instead of attempting to draw out from their writings a number of abstract propositions, we try to follow the argument of the greatest of all the mediæval schoolmen, S. Thomas Aquinas; who,

in this, as in all the speculation of his time, both summed up the teaching of his predecessors, and gave a foundation for subsequent construction. There is, indeed, no reason to suppose that Aquinas took any special interest in the economic side of life. His reason for dealing with it evidently was that his object and method was encyclopædic, aiming at surveying the whole field of thought. But it is worth while noticing both how wide his experience had been and how great his reputation soon became. Born about 1225, of a noble family in the kingdom of Naples, he became, when a mere boy, a member of the preaching order of Dominicans, studied at Cologne and Paris, for many years taught at Paris, taking his share in the struggle between the University and the Friars, and finally returned to Italy, to work for eight years at his encyclopædia, the *Summa Theologica*, and to die in 1274. Even before his death he had been recognized as the greatest of theological teachers; and he soon came to be regarded as the typical representative of theology, of intellect applied to the service of Christian truth. His position in mediæval thought is illustrated by the well-known picture, ascribed to Taddeo Gaddi, in the church of S. Maria Novella, in Florence: there the grave square-browed figure of Aquinas is high and lifted up upon a throne; supporting him on either side are the sacred and profane sciences, each with its best representative among men; while beneath his footstool are the arch-heretics, Arius, Sabellius, Averrhoes.

Aquinas had been discussing the intellectual and moral virtues: he had come to *justice*, which he defines as "the perpetual and constant will of giving to every one that which is his right;" and this brings him to the subject of *trade*. And the first question he puts is, *whether it is allowable to sell a thing for more than it is worth*. His method usually is first to

give the arguments against the proposition that he intends himself to prove; then some crushing dictum against these arguments, from the Bible, or out of the Fathers; then the conclusion of the writer, with the reasons by which he supports it; and then a careful disproof, one after the other, of the arguments which he had begun by quoting. And so here he begins by stating various reasons which might be alleged for supposing that a man can rightfully sell a thing for more than it is worth. In the first place, "justice" is that which is according to the civil law; and the civil law permits buyer and seller to try to outwit one another.[21] The authority of the Roman law, we see, is put in the forefront of the argument. The next argument is also one that might be expected from a lawyer: it rests on an appeal to "nature:" every one wishes to buy cheap and sell dear; but what is common to all must be natural, and what is natural cannot be a sin. The third reason assigned is sophistical: if you accept a gift from a friend and feel bound to give something in return, what you give should be in proportion to the benefit you have received, which is sometimes greater than the intrinsic worth of the gift itself; and if you can thus in friendship give more for a thing than it is worth, surely you can by a contract of sale.

But all these arguments are clearly opposed to the words of the gospel: "Whatsoever ye would that men should do unto you, do ye also unto them." For no one likes to pay more for a thing than it is worth, therefore no one ought to take more for a thing than it is worth. Aquinas's own decision is that to buy a thing for less or sell a thing for more than its value is, *in itself*, unallowable and unjust, though special circumstances may sometimes make it permissible. His reason both for the decision and the exception he thus states. We may put on one side cases in which there is

positive deception: they are clearly sinful. But the very institution of selling and buying wares must have been introduced for the *common advantage* of mankind. If that is so, it ought to be for the *equal* advantage of both parties. And this can only be, if each gets an equal value. And they do not get an equal value if the price one obtains is really more than the article sold is worth.

But suppose one man wants a thing greatly, but its possessor will suffer by giving it up, a price may justly be arranged above the real value so as to compensate for the hurt. If, on the other hand, the seller incurs no special hurt, but the buyer will suffer if he goes without it, the seller has no right to charge more highly for it on that account; the hurt is not his to reckon for. The buyer under these circumstances may, indeed, from good feeling give something over and above the value, but this is to be decided by his own free will.

Then Aquinas turns back and answers the arguments which he began by quoting. First, as to that based on the Roman law. Human law cannot prohibit all that is against virtue, it can only prohibit what would break up society. Other wrong acts it treats as quasi-lawful, in the sense that, while not approving them, it does not punish them. But Divine law leaves nothing unpunished that is contrary to virtue, and prescribes in sales equal justice. The second he meets by denying that a vice is made less a vice by being common to all: "common," that is to say, "to all who go along the broad road." And here he quotes what Augustine says of "just" price. As to the third, commercial justice is a different thing from friendship—in the former it is equality in the thing itself that is required, in the latter equality in the advantage each obtains: an answer which is as sophistical as the argument it meets.[22]

Thus, then, Aquinas meets arguments derived from the

civil law or from a supposed "nature," by the gospel precept, which he confirms by an argument based on the common weal and the equal rights of every man. And throughout he assumes that everything has one definite "just price," or "what it is worth," and that this can be pretty accurately ascertained.

Such a treatment of the subject is sure to seem irritatingly vague and unsatisfactory to one who approaches it with his mind filled with recent discussions on Value. Modern economists, beginning with a definition of the subject-matter of their science, wealth, as that which has exchange value, have believed themselves bound to enter into metaphysical and philological disquisitions as to what value really is, and the laws by which it is determined. Forty years ago they seemed to have come to the end of their task, and J. S. Mill declared that "there is nothing in the laws of value for any future writer to clear up." But the last twenty years, especially since the publication, in 1871, of Jevons' *Theory of Political Economy*, have seen a renewal of the discussion; and now one of the most learned and moderate of recent writers is obliged to confess that "the opinion that the doctrine of value is, as it were, the sure stronghold of certain truth, lifting Economics as an exact science above the changing rules of human conduct, and making a clear distinction between Economics and Ethics, is simply a huge mistake." The modern reader of Aquinas asks himself what relation this "valet" of the great schoolman, or the "justum pretium" of Augustine, can bear to such distinctions as those between "value in use" and "value in exchange," between "market value" and "normal value," between "total utility" and "final utility." Yet their meaning is clearly enough understood when we picture to ourselves the circumstances of the time, and compare them with those of our own day. The

modern "consumer" usually buys what he wants at a shop, *i.e.* of a middleman who stands between him and the actual producer; usually, indeed, there are two or three such middlemen between the makers and the users. The wares mostly come from a distance: the buyer has scarcely any idea of the original cost of the materials, or the condition of the workmen. Into the manufacture of most articles, again, enters a very considerable division of labour; so that it is becoming increasingly difficult to estimate how much recompense is due to each sort of labour,—a difficulty enormously increased by the number of different qualities of the same kind of goods, and the frequent changes of fashion. But in the thirteenth century the great majority of articles in the daily use of the mass of the people were bought by the consumer from the actual maker. If the making of an article was divided between several crafts, as *e.g.* that of cloth between weavers, fullers, and dyers, each of these groups of craftsmen lived within a narrow circuit, and under the eyes of most of those who ultimately bought their manufactures. If price, therefore, was to be determined by the rule of doing to others as we would wish that others should do to us, then the maker should receive what would fairly recompense him for his labour; not what would enable him to make gain, but what would permit him to live a decent life according to the standard of comfort which public opinion recognized as appropriate to his class.

It has been well said that what mediæval moralists aimed at was that price should be determined by the permanent *cost of production*. But here we must distinguish between the sense such a phrase bears in our own time, and the sense that must be attached to it in applying it to the earlier period. It has been the doctrine of orthodox English economists that *normal value*, or *price* (*i.e.* value expressed in

terms of one particular commodity, gold, when the value of the latter itself does not fluctuate), is, in the case of the vast majority of articles, determined by cost of production.[23] So that it might seem that the only difference between the mediæval and modern point of view was that we trust to competition to bring about the result which the moralists and statesmen of the Middle Ages sought to effect by teaching and legislation. But let us consider what the modern economist understands by the phrase. "The term *cost of production* includes not simply the cost of material and the wages of labour, but also the ordinary profit upon the capital employed."[24] To take the last element first; the presence of that by itself makes "cost of production" now a different thing. Capital now plays a part in production almost as great as labour itself, and public opinion recognizes its right to a separate reward, even when there is absolutely no personal exertion or personal risk. But, as has been shown, in the period of which we have been treating, capital was only beginning to come into existence. In agriculture and industry it scarcely appeared at all; skill was far more important. And even if capital had been able to play a larger part in industry, moralists and public opinion denied that it had a right to reward.

The contrast as to wages is almost as great. Doubtless the yardlings and cotters and craftsmen sometimes suffered from famines; doubtless their surroundings were often unsanitary. Still there was a standard of comfort which general opinion recognized as suitable for them, and which prices were regulated to maintain. But now we are content that wages should be determined by the standard of comfort which a class can manage to maintain, left to itself, or, rather, exposed to the competition of machinery and immigrant foreign labour.

The fundamental difference between the mediæval and modern point of view lies deeper than this. It is that, with us, value is something entirely subjective; it is what each individual cares to give for a thing. With Aquinas it was something objective; something outside the will of the individual purchaser or seller; something attached to the thing itself, existing whether he liked it or not, and that he ought to recognize.[25] And as experience showed that individuals could not be trusted thus to admit the real values of things, it followed that it was the duty of the proper authorities of State, town, or gild to step in and determine what the just and reasonable price really was.

Aquinas then turns to the question, *whether a sale is made unlawful by a defect in the article sold*, meaning, it is clear from the context, when the article is not of the substance, quantity, or quality it professes to be.[26] There are three reasons for supposing it is not made unlawful: first, if an article serves all the human wants that it could serve if made of the proper substance, it is not unfair to sell it, *e.g.* alchemic gold for real gold (or, as we might now say, Aluminium or "Abyssinian gold" for real gold); secondly, as to measures, they differ from place to place, and as insufficient measures cannot always be avoided, they are not wrong,—a mere sophism; thirdly, as to quality, great knowledge is required to tell the true qualities of things, and many dealers are without such knowledge.

Against all these is the saying of Ambrose: "It is a manifest rule of justice that to deviate from the truth, to cause any one unfair injury, or to be in any way guilty of deceit, does not become a good man." Hence the conclusion of Aquinas: to sell or buy one thing for another, without observing due quality and measure, is unlawful.

There are three sorts of defect. As to defect in substance,

if the vendor is aware of it when he sells, he commits a fraud, and so acts wrongfully. So also as to measures; he who wittingly uses a defective measure, acts fraudulently, and therefore wrongfully. As to quality likewise; a man selling a broken-down hack as a sound horse, if he does it wittingly, is guilty of fraud. In all such cases, the seller is bound to make restitution. If the defects were present without his knowing it, the seller has not indeed committed sin, but is equally bound to restitution. And the same is true if a buyer has got a thing too cheaply, owing to the ignorance of the seller.

And now as to the three arguments. That based on alchemic gold is worthless; for gold is esteemed, not only for its material uses, but also for the dignity and purity of its substance and for its medicinal properties. If alchemy could make real gold, it would not be wrong to sell it as gold. As to the diversity of measures, this must indeed be the case from place to place, because where things are to be had in greater plenty, the measures for them are usually greater. And therefore it is the duty of the rulers of every place to appoint fitting measures, having regard to the circumstances. And only measures thus instituted by public authority or custom ought to be used.[27] And as to quality, what has to be considered is the use a thing is to be put to, and this depends on qualities which seller and buyer can easily learn.

Thus in all these cases Aquinas takes us back to the question whether the vender knowingly sells a thing not of the quality or measure that the buyer thinks it to be. If so, he is guilty of fraud and therefore of sin, which Divine law will prohibit even if human law does not.

Aquinas next considers a question of even greater practical importance: *Is the seller bound to reveal a fault in a*

article? The reasons assigned for thinking that he is not, are four in number. First, the purchaser is not compelled to buy; it is left wholly to his judgment; and, if he is mistaken in his judgment, that is no fault of the seller.[28] Secondly, it would be foolish to act in such a way as to prevent your carrying on your business, and this would be the result of revealing faults in goods for sale. Thirdly, to know the way of virtue is much more important for a man than to know the qualities of goods. But you are not bound to give every one moral advice, therefore you are not bound to advise every one in their purchases. Finally, the only reason for revealing faults in articles is that their price may be lowered. But price would often be lowered if you told other things besides these; for instance, if you came with a supply of wheat to a market in which corn was scarce, but knew that many other supplies were being brought up behind you, you would get less for your own wheat if you revealed that fact. But you are not supposed to be bound to reveal such a fact; whence it follows that you likewise ought not to be bound to reveal defects.

But against all this is the saying of S. Ambrose: "Faults in sale are bound to be revealed." Aquinas's conclusion is worded with more moderation; a seller may sometimes justly, to avoid injuring himself, keep silence about the secret faults of an article, *provided that* such concealment does not turn to the loss or peril of the purchaser.

It is always wrong, he argues, to cause peril or loss to any one, and this is what you do if you sell faulty articles without warning: causing loss, if the thing, on account of the defect, is really worth less, and the price is not proportionally reduced; peril, if the use of the thing is thereby rendered dangerous—*e.g.* if a lame horse is sold as a safe one, a tottering house as a solid one, bad meat as good. And if the

defects are not revealed, the seller acts fraudulently, and is bound to pay compensation. But if the fault is obvious, *e.g.* a *one-eyed* horse; or if the article does not suit the seller but may suit somebody else; and provided that the price is proportionally lessened, the seller is not bound to speak about the fault, for if he does the buyer may perhaps want to have the price reduced more than would be fair.[29]

And as to the arguments on the other side. First, judgment can only be exercised upon what is clearly before one, so that if a fault is hidden, the matter is not altogether left to the purchaser's judgment.[30] Secondly, you need not send the town crier round to proclaim the fault, for that might drive away persons to whom the article would be serviceable; but you must tell any individual who offers to buy, that he may compare the good and bad qualities of the article. Thirdly, though you are not bound to tell the truth on every subject to every person, yet you are bound to tell it when your own act may result in injury to some one. The fourth argument ought to give Aquinas more difficulty, for it would seem, on the principles of Christian morality, that a corn-dealer was really bound to tell would-be purchasers that other dealers were on the road. Aquinas, however, makes a concession to the growing commercial spirit of the time, and allows that such a dealer would not be doing wrong by keeping silent, though to reveal the future supply or sell his own corn at a less price, in consequence, would show more abundant virtue. Accordingly he has rather lamely to argue that the cases are not parallel,—that the value of the corn will only be lessened by the arrival of the other supplies, while the faulty article is *already* of less value owing to the fault.[31]

It will be noticed with what moderation Aquinas states his position. A man is not knowingly to cause loss or hurt to another: but a defective article may still be worth buying;

if it is not useful for one purpose, it may be for another. We have an amusing instance in the next century in London, showing how regard was actually paid to considerations of this kind. In 1378, a certain tanner was brought up before the mayor by the overseers of the cordwainers' craft, for exposing "false" hides for sale. The tanner maintained that though these hides were not good for cordwainers, they were good for other craftsmen. Whereupon a jury was formed, consisting of two saddlers, one pouchmaker, one girdler, two leather bottle makers, two tanners, two curriers, and two cordwainers, "who declared upon oath all the said hides to be raw, and in their then state to be of no service to any trade," and accordingly they were forfeited.[82] Clearly the tanner would have escaped if he could have proved his hides good for anything at all.

The three previous questions have concerned the relations of agriculturists and of master-craftsmen to the public: Aquinas has left to the last the question most difficult for him to answer, that of the relation of the non-manufacturing merchant to the public. As we have seen, the earlier Christian moralists had often spoken as if a merchant's profession were in itself a sinful one. But Aquinas clearly sets out upon the discussion *Is it right in trade to buy cheap and sell dear?* with the intention of answering the query in the affirmative, though with very important limitations. There are three arguments for the sinfulness of trade. First, it must be sinful, because Chrysostom says "he who buys a thing in order to sell it, unaltered, for gain, is the merchant driven from the Temple." Secondly, it has already been proved that it is wrong to sell a thing for more or buy it for less than it is worth; but he who buys cheap and sells dear must do one or the other. Thirdly, Jerome tells us to "flee as from a pestilence from the priest who is a merchant and out of

poverty becomes rich," and what is wrong for the clergy, cannot be right for the laity.

But Augustine tells us that though the covetous tradesman curses at a loss and lies about prices, these are vices of the man and not of the occupation, which may be carried on without them. Aquinas's own decision is that it is permissible to trade in order to obtain the necessaries of life; but to trade for the sake of gain is in itself base,[83] unless the gain is for some honourable purpose.

Aristotle, he says, distinguishes between two kinds of exchange. There is, first, the natural exchange, where one thing is exchanged for another, or wares for money, on account of necessity; but this sort of exchange is rather that of housekeepers or of statesmen, who have to provide necessaries for a family or a State. And there is the second sort of exchange, where money is given for money or goods for money, for the sake of gain. Such trade is *in itself* base, for it is the servant of lust for gain, which knows no limit.[84] So that trade in itself is base, in so far as it implies no necessary or honourable end. Yet *gain*, the object of trade, is not in itself, contrary to virtue (meaning that gain is not wrong, only the measureless desire for gain). And as there is nothing to prevent gain being devoted to some necessary or even honourable object, this would make trade lawful; as, for instance, when a man seeks in trade a moderate gain for the maintenance of his family or the relief of the poor; still more when trade is carried on for the public good, that a country may not be without the necessaries of life, and the merchant looks upon the gain, not as the object, but as the reward of his labour.[85]

Aquinas has accordingly no difficulty as to the saying of Chrysostom. Trade is indeed sinful, he says, when gain itself is the ultimate object, still more when the article is

sold unchanged for a higher price. If the article is improved in the meanwhile, the gain is but reward for the additional labour; and even gain may be lawfully aimed at when it is for some necessary or honourable purpose. He meets the second objection by drawing a distinction between buying cheap *merely in order* to sell dear, and buying cheap and then *for some other reason* selling dear. This latter may justly happen when the article has been improved meanwhile; or in cases where the price at some other place or time happens to be different; or because of the danger incurred in transferring the article from one place to another. Elsewhere Aquinas distinctly recognizes a right to a higher price on account of the *labour* of bringing an article to another market. As to the prohibition to the clergy, it does not follow from that that trade is sinful, for the clergy ought to avoid what has even the appearance of evil.

We are now in a position to look at the teaching of Aquinas as a whole. He clearly considers that in any particular country or district there is for every article, at any particular time, some one just price: that prices, accordingly, should not vary with momentary [86] supply and demand, with individual caprice, or skill in the chaffering of the market. It is the moral duty of buyer and seller to try to arrive, as nearly as possible, at this just price. Moreover, there are for all articles proper measures and qualities, and these also must be secured; and if the wares have any flaws or defects, it is the duty of the vendor to state them.

As to trade, though he hesitates at the exact point at which the line is to be drawn, he clearly would draw a line between licit and illicit. The distinction is rather one depending on the *motive* of the trader: if he aims not so much at gain, as at supplying himself and his family, or, through himself, the poor, with the necessaries of life; or

if he imports into his country goods of which it has a real need, and, while he accepts what gain he can get as a reward, is not bent merely on making gain; then this is trade that is worthy of approbation. But if it is just the desire for gain that impels a man, such trade is mean, base. And, what is still more important, Aquinas absolutely condemns all *merely speculative* trading, all attempt to make gain by a skilful use of market changes. He does not indeed tell us how the just price of an article brought by a trader to a distant market is to be determined; but it seems to follow from what he says of the sort of trading that is justifiable, that he would deem it to be such as would cover the just price paid for it by the merchant himself, together with such gain as would secure for the merchant what public opinion regarded as the necessaries of life for a man of his class.

The only form of state action that Aquinas himself distinctly recommends is the regulation of weights and measures. But the inevitable result of such teaching as to what was sinful and what not in the economic sphere would be an attempt on the part of the authorities of State, municipality, and gild first to correct particular evils, and then, as the number of evils to be corrected increased, to control industry and trade in every direction. For it was not until comparatively recent times that either public opinion or legislative theory drew the distinction between law and morality. Whatever was wrong, men thought might fitly be forbidden under penalty. There were disputes as to the proper limits between the authority of the two great powers, spiritual and temporal; there were diverse theories as to what constituted the supreme temporal authority in a State; and there were conflicts between the various organs of the State, as, for instance, between the central authorities and municipalities. But there was nothing like the modern feeling that certain

sorts of actions are matters entirely for the individual conscience, and not rightly to be "interfered with from outside."

§ 17. The teaching of the Church on the subject of *usury*, *i.e.* the taking of *any payment* for a loan of money, was due, even more directly than the doctrine of just price, to the lessons of the Gospel. It began with the very natural attempt to enforce the precept, "Lend, hoping for nothing again,"[87] as part of the duty of brotherly love among Christians; and as having the force of a Divine command, and therefore to be obeyed, even had the precept not appealed, as to most of the Fathers it seemed to do, directly to the conscience. At first the prohibition of lending money for gain was a disciplinary regulation binding only on the clergy; the Council of Nicæa, in 325, forbade the clergy to take usury on pain of degradation from their clerical office, and the duty of abstaining from such base gain was repeatedly insisted upon by the decrees of synods and in the writings of the Fathers. The prohibition was extended to the laity in western Europe by the capitularies of Charles the Great, and the councils of the ninth century.[88] But for some time after this the subject is very little noticed in contemporary records; probably because cases in which individuals had command of large sums of money were so rare, and the influence of the Church was so considerable, that instances in which payment was obtained for loans very seldom occurred.

We cannot fail to connect the renewed attention given by churchmen to the sin of usury, from the twelfth century onward, with the revived study of Roman law in the West. No legislator or judge could remain ignorant that the code which men looked on as the highest embodiment of human wisdom and statecraft distinctly permitted loans for gain, and provided means for enforcing the payment of usury as well as capital.[89] The greatest of the "glossators," Accur-

sius of Bologna (1182–1260), entirely ignored the Canon Law in his interpretation of the section of Justinian's code concerning usury; and, indeed, specially refers to Irnerius and his pupil Bulgarus, in the previous century, as authorities for saying that a contract to pay usury is entirely justifiable.[40] If contemporary satire can be trusted, Accursius was not afraid to illustrate his theory by practice; to his gains as a professor he is said to have added those of a money-lender, even to his own pupils.[41] It is interesting to Englishmen to notice that this jurist's son was, for at least seven years, in the service of Edward I. as a member of his inner council.[42]

Papal legislation, to meet what was deemed a growing evil, had begun as early as 1179. Among the canons of the great Lateran Council held by Alexander III. in that year, one ran as follows: "Since in almost every place the crime of usury has become so prevalent that many persons give up all other business and become usurers, as if it were permitted, regarding not its prohibition in both testaments, we ordain that manifest usurers shall not be admitted to communion, nor, if they die in their sin, receive Christian burial, and that no priest shall accept their alms." Clergy disobeying this order were to be suspended from their office until they had satisfied their bishop.[43] The same pope, in letters to the Archbishop of Salerno and the Bishop of Piacenza, had pronounced that usurers, and even the heirs of usurers, ought to be compelled to restore their unjust gains under similar penalties.[44]

The rise of the mendicant and preaching orders in the early part of the following century, both of them vowed to absolute poverty, gave fresh impulse to the effort to lessen the evils of usury by the power of the Church: the former order contained a large party anxious to imitate

S. Francis in his entire contempt for worldly goods; the latter systematized Church teaching, and their greatest representative, Aquinas, threw the argument against usury into a philosophical form. Up to this point none but spiritual penalties had been threatened against usurers, and no attempt had been made to directly influence the secular authorities of the various states. It was at another great council, that of Lyons in 1274, that Gregory X. ventured to make a fresh advance in both of these directions. In one he ordains that no community, corporation, or individual should permit foreign usurers to hire houses, or indeed to dwell at all upon their lands, but rather should expel them within three months; and he forbids any one to let houses to them. The disobedient, if they are prelates, are to have their lands put under interdict; if laymen, to be visited by their ordinary with ecclesiastical censures.[45] This latter provision was not likely to be very effective; consequently the more importance must be attached to the next canon, which ordained that the wills of unrepentant usurers,—of usurers who did not make restitution,—should be without validity.[46] This brought usury definitely within the jurisdiction of the ecclesiastical courts, which had everywhere gained a monopoly of testamentary business.

The last step was taken in 1311, when Clement V. boldly declared all secular legislation in favour of usury null and void, and branded as heresy the belief that usury was unsinful. The canon appears from its wording to be addressed primarily to town authorities, and, it would seem, especially to those of Italy and southern France. "Whereas," it runs, "grievous information has come to us that certain communities, offending against God and their neighbour, against Divine and human laws alike, permit by their statutes usury to be demanded and paid, and compel debtors to pay the same,

we therefore decree, with the approval of this sacred council (of Vienne), that whatever authorities, captains, rectors, consuls, judges, councillors, or any other presume to make in future any statutes, either that debtors shall pay usury or that a usurer is not bound to restitution, shall incur sentence of excommunication." They are to incur the same penalty if, within three months, they do not abrogate all such statutes. Usurers are to be compelled to produce their books when any case arises. And "if any one fall into the error of daring pertinaciously to affirm that to engage in usury is not a sin, we decree that he shall be punished as a heretic, and enjoin all ordinaries and inquisitors to proceed with rigour against all suspected of this heresy."[47]

We cannot be surprised that, with such a warning before him, the legist Bartolus (1314–1357), the founder of the second great school of civilians, should take up a very different position on the subject from Accursius. He comments in the usual fashion on the law of Justinian concerning interest, but frequently remarks that the taking of usury is now forbidden by civil law as well as by the canon law.[48] But the change in the teaching of the civilians had been gradual. Even the law of Justinian had placed certain limitations on the lending of money;[49] and, in explaining these, the civilians had naturally tended to introduce some of the arguments of the theologians.[50] We shall see later that it was during this period that secular legislation itself began to follow the example of ecclesiastical; and the legist Baldus (1327–1400), whose authority was especially great in merchant law, frequently refers to the prohibition of usury as enforced in his time in all the secular courts.[51]

Let us turn now to the arguments by which theologians and lawyers justified the prohibition. Of these the most important, as has already been said, was the gospel precept,

which was held to be conclusive in itself, so that it was seldom considered necessary to explain the reasons which had led to it. As secondary proof from Holy Writ, reference was made to the Mosaic law prohibiting the taking of usury by one Hebrew from another, especially the warning, "If thou lend money to any of My people that is poor, thou shalt not be to him as an usurer, neither shalt thou lay upon him usury."[52] Later writers referred to the doctrine of Aristotle that money was itself barren, and that therefore fruit or payment cannot justly be demanded for the use of it. This, of all the theoretic arguments, was the one most readily grasped by the public mind, and the one consequently that appears most frequently in literature: as in the well-known passage in the "Merchant of Venice," where Antonio taunts Shylock with taking "a breed for barren metal." But the main argument by which the great schoolmen and legists maintained that the taking of usury was of itself opposed to natural reason and unjust, was one much more subtle than this, and careful attention must be given to it. It turned upon a distinction derived from Roman law, though applied in a manner foreign to Roman law, between *consumptibles*, things such as corn, that are consumed or spent in use, and *fungibles*, such as a house, which is not consumed by use. Money, it was said, belonged to the first class. So that to demand usury was, as it were, to sell a thing, and then make a charge for the use of it, which was unjust. The modern reader will probably object that the lending of money can hardly be called a sale. But it had been a doctrine of the Roman law, that when money had passed into the hands of the borrower, he obtained not merely the *possessio* but the *dominium*, *i.e.* the absolute right of property in it, and therefore the canonists argued that the transaction must be regarded as a sale in which the payment of the

price was deferred. And to any who still objected that some payment ought to be made for the loss of time in waiting for the price, the canonists replied that time was common property, and ought not to be sold.

The argument based on this distinction had appeared comparatively early; in the *Decretum* it is attributed to S. Chrysostom. But it will be worth while here to quote it in the shape in which it was stated by Aquinas, from whom it was taken and commented upon by all the later theologians and legists.

"To take usury for a loan of money is in itself unjust: for it is to sell what does not exist, which is an inequality, and therefore an injustice. To understand this, it must be known that there are some things whose use consists in the consuming of them, as when we consume wine by drinking it, or corn by eating it. In articles of this kind, therefore, the use of the thing must not be reckoned separately from the thing itself; he who is given the use is thereby given the thing. And accordingly in lending a thing of this kind, all the rights of ownership are handed over. If therefore a man wanted to sell wine and the use of the wine apart from one another, he would be either selling the same thing twice (meaning that the use *is* the wine), or would be selling what did not exist. Wherefore he would manifestly be committing injustice and sinning. For the same reason, he would commit injustice who lent wine or corn, seeking for himself *two* rewards, the restitution of an equal amount of the article, and also a payment for its use, called usury.

"But there are some things, the use of which is not in the consuming of them; thus the use of a house is to dwell in it, not to destroy it. And, accordingly, in cases of this kind the two things can be granted separately, as when a man

transfers the ownership of a house to another, but reserves to himself the use of it for a certain time, or conversely. Therefore a man may lawfully receive a price for the use of a house, and besides this demand the restoration of the house itself at the end of some period agreed upon. But money, as Aristotle says in the fifth book of the Ethics and the first of the Politics, has been devised for the making of exchanges. So that the first and chief use of money is its consumption or spending. Wherefore it is in itself wrong to receive (besides the return of the money itself) a price for the *use* of the money."[53]

It will be shown in a later section how, in the sixteenth century, instead of the theory that all taking of reward was usurious, arose the theory that it was only the taking more than a certain percentage; and when we come to our own century we shall see how the practical difficulties involved in such a distinction, together with the belief in the natural right of every man to make what terms he pleased in money bargains,[54] caused all legal restraints to be removed. There was a period when to defend usury laws was to obtain the character of a sentimental reactionary. But the political dangers which complete freedom of contract in the matter of loans has caused in central and eastern Europe, dangers so great as to induce the German legislature to retrace its steps and bring back the legal prohibition of usury in a more workable form,[55] may dispose us to consider what sort of justification the ideas we have been stating may have had in relation to the circumstances of the time in which they were dominant. But, first, we must put on one side the argument in favour of interest which will probably suggest itself to nine out of ten who think about the matter: "A man who has money is not bound to lend it; if he does choose to lend it, surely he is free to make what conditions he pleases." To

this the mediæval theorist would reply, "True, he is not bound to lend it; but if he does, he can only do so on just conditions. If he persists in making unrighteous conditions, he is to be punished by spiritual penalties, and, if these do not suffice, by secular penalties. A man has not the right to do what he likes with his own."

Now, speaking generally, it may be said that, during the period from the eleventh to the fourteenth century, there was but a very small field for the investment of capital.[56] In the trading centres there were, indeed, during the later part of the period, occasional opportunities for a man to take part in a commercial venture, and no obstacle was put by the Church or public opinion to a man's investing his money in this way, when no definite interest was stipulated for, but he became a *bona fide* partner in the risk as well as the gain.[57] But such opportunities were still rare. We must not forget that England was almost entirely an agricultural country, and that its agriculture was carried on under a customary system which gave little opportunity for the investment of capital. Even in the rising manufactures of the time there was little room for "enterprise" or "extension of business:" the demand was too small, the available workmen too few, for any such rapid increase in production as we are nowadays familiar with. Under such circumstances, when money was borrowed, it was usually to meet some sudden stress of misfortune, or for "unproductive" expenditure, *e.g.* by a knight to go on crusade, or by a monastery to build a church. A good example is furnished by the history of S. Edmundsbury, on which Carlyle has commented in *Past and Present*. The old abbot mismanaged the convent revenues; the *Camera* fell into ruins; and £27 had to be borrowed of a Jew to rebuild it,—a debt which, by the accumulation of compound interest, had, within a few years, risen to more than £400.[58]

In cases like these it seemed unjust that a person possessing money which he could put to no productive use himself should make gain out of the necessities or piety of another. Ample security was usually given for the return of the money lent;[59] and as the alternative to lending was that the money remained idle in the hands of its possessor, he was in just the same position when his money came back to him as if he had never parted with it. Surely, under these circumstances, we cannot blame the moralists who thought that the evils of usury were so great that they did well to prohibit the payment of interest altogether. And such an opinion was likely to be strengthened by the grievous results before their eyes of such usury as was permitted,—that exercised by the Jews. The Jews of history were not cringing cowards, but too often merciless bullies, confident of the royal protection. We can hardly blame them. They were shut out by law or prejudice in almost every country from engaging in agriculture, industry, or commerce, and were thus almost driven to trade in money. It was in vain that Innocent III. called upon all Christian princes to compel the Jews to give up their usuries; they were too profitable a source of revenue to be parted with, until sovereigns could show self-denial and cruelty enough to drive them out of the kingdom altogether, like Edward I. in 1290. The ecclesiastical courts were obliged to shut their eyes to them. Since, moreover, the extreme penalties that until 1274 the courts could inflict were exclusion from communion and the refusal of Christian burial, it is difficult to see how the Jews could have been hindered in their business, even had the courts been bold enough to attempt it.[60]

It is scarcely denied by competent modern critics that, during some part at any rate of the Middle Ages there was such an absence of opportunities for productive investment

as relatively to justify this strong prejudice against interest; the only difference of opinion is as to how late that period reaches. One writer is of opinion that even before the twelfth century the economic condition of things was such that the papal decrees could not possibly meet with obedience: he can only regard the effort of the Church as a vain struggle against irresistible tendencies.[61] To another the prohibition seems justifiable far into the fifteenth century.[62] On the one hand, it is clear that the growth of commerce from the thirteenth century onward must, by widening the field for profitable investment, have lessened the injustice of taking usury. If, for instance, a man could make twenty per cent. on a certain capital in commerce, it might seem hard to prevent his borrowing money at ten per cent. It was impossible to maintain that money was in all cases barren after Innocent III. had expressly ordered that dowry in certain cases was to be "committed to a merchant" in order that "honourable gain" might be obtained.[63] On the other hand, we can scarcely suppose that the prohibition of usury would have been maintained by public opinion, enacted by statute, and enforced in the courts throughout the fourteenth century, as it certainly was, if cases had been of frequent occurrence in which it really prevented legitimate commercial enterprise, or hindered the growth of manufactures. We may, perhaps, conclude that on the whole it was suited to the economic condition of western Europe, though there may sometimes have been cases in the active commercial life of the towns where it was felt to be a burden.

Later writers, especially those of the sixteenth century, occupying themselves in the work of systematizing canon law, and in applying it to new cases as they arose, arrived at certain theoretic conceptions concerning capital, money, and value which seemed to them to underlie the particular pre-

cepts. They showed how these conceptions were related to one another, and in this way there came to be formulated for the first time a general economic theory. This theory Endemann has explained with great fulness; and his argument implies that because certain general conceptions seem to be the logical basis of definite regulations, these conceptions must have been in the minds of those who issued the regulations. But the ideas which we have already explained appear quite sufficient to account for the rules and maxims of, at any rate, the period down to the middle of the fourteenth century. It seems advisable, therefore, to postpone the consideration of the general canonist theory, as well as the exceptions, limitations, and pretexts for evasion which were gradually devised, until we come to the later centuries.

We must, however, notice the application of the prohibition to cases other than money loans. The repayment of a loan together with usury in money had, of course, been the first subject of prohibition; but even the Fathers of the fourth and fifth centuries had rebuked those who pretended that usury consisted only in taking *money* reward. If you lend money to a man expecting to receive from him more than you have given, whether it is in money or in corn, wine, oil, or anything else, you are a usurer, says S. Augustine. Jerome, in almost the same words, lays down that usury is to receive more than you have given, and condemns those who for money they have lent "are wont to receive small presents of various kinds;" while S. Ambrose declares "usury is whatever is added to the capital, whether it be food, clothing, or whatever else you like to call it." All these definitions were included by Gratian in his *Decretum*.[61] Gregory IX. drew the deduction that to pay a sum of money on condition that you should be repaid at a future time *in wares*—"a certain number of measures of grain, wine, or oil,"—when you

knew that before that time the value of those articles would rise above that sum, was also usury.[65] Such a transaction could be called either a loan or a purchase; and though the prohibition did not interfere with a sale where the purchaser had no idea whether at the time of delivery the value of the goods would be greater or less, it certainly stood in the way of speculative trading, where the purchaser *expected* that values would rise.[66] For it was not so much the actual receipt of greater gain, as the *intention* to obtain greater gain that was sinful.

A second deduction, probably even more important, was that, since it was wrong in return for a loan to receive back the principal in money together with usury in kind, or to receive in kind more than the value of the money, it must also be wrong, if you do receive the value in kind, then in addition to demand the capital sum in money. The application of this was to those cases where land had been pledged in security for a debt. When the lender had taken possession of the land and had kept it long enough to receive from its produce the value of the sum originally lent, he was bound to restore the land. Cases of this kind must have been especially numerous. The canon drawn up on the subject at the Council of Tours in 1163 dealt only with the misconduct of the clergy; the prohibition of such unjust gain by the laity occurs in a Bull of Alexander III., addressed to the Archbishop of Canterbury and his suffragans: "Since to pursue the gains of usury is dangerous not only to the clergy but to all others, we enjoin you to compel by ecclesiastical penalty those who have received the capital they lent (together with the expenses of management) from the possessions or woods they are known to hold in pledge, to restore the same pledges."[67] And in the following century the rule was repeated in a canon issued by S. Edmund Rich

of Canterbury: "We forbid that any one should endeavour to retain a pledge, after from the fruits of it he has received the sum he lent, together with expenses, since to do so is usury." [68]

The transition was easy from usury, strictly so called, to usurious practices in ordinary trade. Thus all payment of money in return for *the giving of credit*,—all bargains in which goods were sold at a price higher than their real value in consideration of the seller's having to wait some time before he was paid,—were deemed usurious. For it was the same as if the seller were to charge usury for lending the goods themselves, or the amount of money which was the just price of the goods, to the buyer, for the period during which the seller waited for payment. It is significant that the direct prohibition of such practices should appear first in a Bull directed by Alexander III., in 1176, to the Archbishop of Genoa,—which city was then struggling with Pisa for commercial supremacy in the Mediterranean,—and that the wares specially mentioned should be spiceries. It was the trade in spice which produced probably the first body of *wholesale merchants* dealing in a special commodity, namely the grocers; and we may perhaps conjecture that cases of purchase on credit, such as the letter speaks of, would be likely enough to occur on the part of the small general dealers from the greater merchants. "You tell us it often happens in your city that people buy pepper, or cinnamon, or other wares, at the time not worth more than five pounds, promising to pay those from whom they received them six pounds at an appointed time. Though contracts of this kind and under such a form cannot strictly be called usuries, yet nevertheless the venders incur guilt, unless they are really doubtful whether the wares will be worth more or less at the time of payment. Your citizens therefore will do well, for their own salvation, to cease from such contracts." [69]

It is easy to see how the theory of usury, when it had once been developed to this point, would come to be interwoven with the theory of just price, until the one could in many doubtful cases be brought to strengthen the other. It will be worth while to conclude this section with two quotations which will show how the teaching was presented in a popular form. Hitherto we have referred only to the writings of Fathers and Schoolmen, the canons of Councils, and the decrees of Popes: the following are taken from the *Ayenbite of Inwyt*, a sort of manual for confessors, of wide use in the later Middle Ages, itself a translation made in 1340 by a certain Dan Michel, a monk of Kent, from a French treatise written in the previous century. "The eighth bough of Avarice is chaffering, wherein men sin in many ways, for worldly gain, and especially in seven ways. The first is to sell things as dear as one can, and buy things as cheap as one can. The next is lying, swearing, and forswearing, the higher to sell their wares. The third is by weights and measures, and that may be in three ways: the first when a man has divers weights or divers measures, and buys by the greater weights or measures and sells by the lesser; the second when a man has right weights and measures but makes an untrue use of them, as when taverners fill a measure with scum; the third when in weighing a thing it is made to appear heavier than it is. The fourth manner of sin in chaffering is to sell to time [referring doubtless to such sales on credit as have just been explained]. The fifth manner is to sell otherwise than one hath showed before, as the scriveners do who begin with words fairly written. The sixth is to hide the truth about the thing one sells, as do horsedealers. And the seventh is to contrive that the thing sold should appear better than it is; as when cloth-dealers sell their cloth in a dim light." Usury is also divided into seven kinds. "The

first when a loan is made in money, and the lender receives profits in money, or in horses, or corn, or wine, or fruits of the land which he takes in pledge, over and above the capital sum, and without reckoning them as part payment. What is worse, a creditor will sometimes demand payment several times in the year, to raise the rate of usury, even when at each term he receives a gift; and he will often turn the interest into the principal debt. These are usuries evil and foul. The courteous lender is he that lendeth without making bargains for profit. . . . The next manner of usury is that of those who do not lend themselves, but retain what their fathers, or those whose wealth they have inherited, have received through usury. The third way is that of those who are ashamed to lend with their own hand, but lend through their servants or somebody else. They are thus master money-lenders; and of such sin those great ones are not free who support Jews and other usurers, that destroy the country, receiving from them the ransom money of the goods of the poor. The next way is that of those who borrow at a low rate of interest themselves and lend at a greater,—the little usurers. The fifth manner is when a man sells a thing for more than it is worth at the time; or, what is worse, when he sells at a time when his wares are greatly needed for twice or thrice as much as they are worth. Such trade is ruinous to the knights who follow tournaments; they get from them their estates in pledge and never release them. Others buy articles, such as corn or wine, for half as much as they are worth, and sell them for more than twice as much as they are worth; or buy them in harvest time, or when they are especially cheap, with intent to sell them again when they are dear, wishing for a time of scarcity; while others, again, buy corn in the blade, and vines in the flower. The sixth manner of usury is to lend

money to merchants on condition that they shall share in gains but not in losses. . . . And finally the seventh manner is that of those who lend a little to their poor neighbours when they are in need, on condition that they shall work for them, and get out of them three pennyworth of work for every penny they have lent." [70]

Nothing could better illustrate than this last passage the way in which the two rules, to sell at a fair price and to avoid usury, had come to be almost identified with one another even in the mind of the writer of a manual for the confessional. It has now to be seen how it was attempted in secular legislation to give expression to, and to enforce, these principles.

§ 18. Most of the economic questions which presented themselves to mediæval thought were met by the proposition that for every commodity or service there was a just money equivalent. But that practical effect should be given to such a principle, it was necessary that a country should possess a trustworthy currency. Moreover, the sole right of coinage had been expressly claimed by Roman law as a prerogative of the head of the State, an example which could not fail to commend itself to the sovereigns whose kingdoms arose upon the ruins of the empire. For both those reasons, to maintain a prerogative, and to satisfy a general need, the princes of the young states of western Europe began very early to issue currencies of their own. And thus the provision of a medium of exchange was the first assistance which the organization of the state rendered to society. It is therefore necessary to deal at somewhat greater length with a subject to which brief reference has already been made.

The earliest function of a currency in early societies was not so much that of a medium of exchange as of a *store of*

value. There was little regular traffic or purchase of commodities: men lived upon the produce of their lands, tilled by themselves or by their dependents. Still, occasions sometimes arose in which men might need or desire to buy for themselves food, land, or slaves; adventurous traders sometimes arrived at a great man's house with jewels or robes for sale; sometimes there was a *wergild* to be scraped together. And even if the store were not parted with, the very possession of things universally desired as ornaments, would increase the respect in which a man was regarded. Such a purpose was served among the English as among the Scandinavian nations by gold armlets or rings,[71] and by the few Roman gold coins left behind after the barbarian conquest or brought by traders. The first new and independent coinage in western Europe was struck by the Merovingian princes; it was in gold, and in imitation of a small Roman coin.[72] The introduction of Christianity into England, bringing with it new ideas of royal duties and powers, and a closer connection with the Continent, led almost at once to an imitation of the Merovingian currency. These first English coins were of gold; probably very few were struck. The pieces comprising such a currency were far too valuable to be used conveniently in trade. Moreover the Teutonic peoples had long shown a preference for silver over gold. Accordingly, with the rise of trade along the Frisian shores, and the increasing importance of the Austrasian Franks, there appeared a silver coinage along the lower Rhine.[73] The example was followed in the English kingdoms which carried on trade with those countries, namely Kent, Essex, and Mercia; and the silver coins then struck, known as *sceattas*, were almost certainly the first coins that came into general use in England for the purpose of trade.[74] They were not destined, however, to play any considerable part in the history of English currency; about a century later they were

replaced by a coinage of a different character, the silver penny, which from the end of the eighth to the middle of the fourteenth century was the only coin in general use in this country. This also was a direct imitation of the "new pennies" issued by Pepin the Short in the Frank kingdom, about 755;[75] and, as we might expect, it was issued first by Offa, who was in constant communication with the Carling princes. For some time Northumbria had a copper coinage of its own; but towards the end of the ninth century this also gave way to a silver penny currency, similar to that of the south.[76]

It is probable that the right of coinage was from the first in England regarded as specially attached to the royal dignity. The *sceattas* indeed bear no inscriptions; but the silver pennies have on the one side the name of the moneyer who struck them, and on the other usually that of the king by whose authority they were issued. From this evidence, it appears that each of the kingdoms then existing in England—Kent, East Anglia, Northumbria, Mercia, and Wessex—had its own issue, as long as it was governed nominally by a king, even when it had fallen into the position of a vassal state. And although the great ealdormen of later centuries became practically semi-independent princes, they never issued money with their own names upon it. To the rule that the coinage was issued by royal authority there are, however, three remarkable exceptions. There are a number of pennies extant bearing the names of "Edmund, king," or "S. Edmund," struck, it would seem, at the end of the ninth and beginning of the tenth century. It is probable that these were made to be worn in memory of the martyred king of East Anglia, and that they scarcely came into general circulation.[77] Much more important than these were the two archiepiscopal coinages: that of Canterbury, bearing

the name of its archbishops, from circ. 766 to circ. 914; and that of York, consisting of copper *stycas* (or *pieces*), with the names of the archbishops, from circ. 734 to circ. 900, and of silver pennies, bearing the name of S. Peter, during the first half of the ninth century.[78] In the almost continuous anarchy during the reigns of the later Northumbrian kings, both Anglian and Danish, the Archbishop of York gained a unique position as the one representative of order in the northern half of England. The primate of Canterbury also had an influence and authority that made it advisable for Egbert to enter into alliance with him as with an equal potentate.[79] It is easy enough, therefore, to understand why the two archbishops should have been allowed to exercise rights which the kings usually reserved to themselves. But it does not seem fanciful to suggest that this was also due to the feeling that the Church was, in an especial way, the guardian of morality in matters of trade, and therefore that it was fitting that the all-essential goodness of the currency should be guaranteed by putting its issue into the hands of the great pastors. Even after the archbishops of Canterbury had ceased to issue coins bearing their own name, they retained the right of appointing two out of the seven moneyers employed in the city of Canterbury, while the abbot of Christ Church nominated one; and at Rochester the bishop appointed one out of three.[80] Doubtless, as we find by later grants, the right of having a moneyer implied also the receipt of certain profits.

In 954, the Danish kingdom in Northumbria came to an end. Henceforward the only king in England was the ruler of Wessex.[81] About the same time, moreover, the West Saxon kings began to assume titles implying imperial power, such as *Basileus*, *Imperator*, and *Caesar*,[82]—partly, no doubt, to assert their own overlordship over all other princes within

Britain, but also partly, it is probable, to claim for themselves a dignity such as they supposed belonged to Roman emperors. A natural consequence was the assertion of the king's exclusive prerogative of issuing money. "Let no man have a moneyer except the king," appears among the laws of Ethelred in 997.[83] But it was long before the work of minting was confined to one place immediately under the supervision of royal officials. It would seem that moneyers were allowed to establish themselves, or were employed at intervals, in all important trading centres, though little is known of their status or of the precise way in which the coins got into circulation. It was the growing trade in the towns, especially at the ports,[84] which made a currency increasingly necessary, and the minters in each town may be regarded as primarily working to meet the needs of the traders of that particular place. Indeed, it was so impossible to maintain the standard of quality and weight unless the minting was done publicly in towns, under the constant watch of the reeve, that it was enacted that it should be carried on nowhere else on pain of death.[85]

So far England had only followed the same course of development as the other countries of western Europe; but from the tenth century onward it presented a striking contrast to them. In France, Germany, and Italy the right of coinage was gained by all the more important princes and cities; in England, the king's sole prerogative was never in danger except during the anarchy of Stephen's reign. Then, indeed, baronial mints appeared. The claim to strike their own coin was justly regarded by contemporaries as an encroachment on the rights of sovereignty. But Henry II. had no difficulty in putting an end to this "adulterine" coinage;[86] and it is to be noticed that the king's sole right of regulating the currency was afterwards asserted, not only

as against individual barons, but also as against Parliament. A provision of the Ordainers, that no charge should be made on the coin of the realm without the consent of the barons in Parliament, was repealed in 1322.[87]

Down to the reign of Henry VIII. the kings of England were honourably free from the crime of debasing the currency,—therein a striking contrast to their French neighbours. For a brief space there was danger. William Rufus seems to have exacted or threatened to exact a payment from his subjects known as *moneyage*, *monetagium*,—a recognition, apparently, of his right to alter the coinage, and a bribe not to do so.[87] But this, among other innovations, was expressly renounced by Henry I. From that time the efforts of the sovereigns or of their ministers were steadily directed towards securing a sound currency for the country. There were two main dangers: lest the moneyers should elude the vigilance of the local authorities, and issue coins of base metal, and lest coins should be clipped as they passed from hand to hand. The former evil was met and overcome by ruthless severity in the punishment of fraudulent moneyers. Their hands were to be cut off and set upon the mint-smithy, says a law of Athelstan; they were to be put to death, says a law of Ethelred.[88] Henry I. fell back upon the earlier punishment of dismemberment; and in one swoop of avenging justice inflicted it, in 1125, on every moneyer in England.[89] It is clear from the chroniclers that Henry's conduct was seen with gratitude by the nation. Only two years before, a council at Rome, under Pope Calixtus, had pronounced upon such criminals the highest penalty that an ecclesiastical authority could inflict, and had separated from the congregation of the faithful whoever knowingly made or purposely circulated false money, as men accursed, oppressors of the poor, disturbers of the State.[90]

The Government in the main succeeded: the difficulties which arose in the following centuries were due to the importation of base money from abroad. The other danger was greater, and was but partially avoided. The practice of clipping the coinage was carried on so generally that it was often necessary to prohibit the use of the old currency, and cause a new one to be issued, as in 1180 and 1248.[91] Henry I. endeavoured to lessen it by ordering that all who lived within towns should take an oath to preserve the coinage;[92] the ministers of John, by a proclamation in 1205 that none were to keep clipped money in their possession on pain of seizure,[93] and, in the following year, by an Assize fixing one-eighth as the limit of allowable under-weight, and ordering the use of a jury of inquest to discover who were guilty of clipping.[94]

It was impossible altogether to put an end to this form of fraud so long as the process of minting was as rude as it remained until the seventeenth century. Perfectly round coins could not be produced until the die struck by the hammer had been replaced by the "mill;"[95] and the fact that coins as issued from the moneyers already differed somewhat in size rendered the work of the clipper easy. It was all the more important, therefore, that such uniformity should be secured as was possible. In 1208, all the moneyers, assayers, and keepers of dies were summoned from London, Winchester, Exeter, Chichester, Canterbury, Rochester, Ipswich, Norwich, Lynn, Lincoln, York, Carlisle, Northampton, Oxford, S. Edmundsbury, and Durham, to appear at Winchester with their old dies; these were taken from them, and they were sent back with new ones all of one pattern, —a precaution often repeated.[96] This expedient had the additional advantage of hastening the slow tendency towards uniformity in the "type" or pattern of the coins. As early

as the reign of Henry II. the number of types had been reduced to two, and at last, under Edward I., it was limited to one. The first recorded public trial of the *quality* of the coins issued was in 1248;[97] in 1270 a general assay of the coins in use throughout the kingdom was ordered;[98] and the first regular "trial of the pix,"—an examination of the coins recently struck at the mints of London and Canterbury, by the barons of the Exchequer,—was in 1281 or 1282.[99] And gradually we find the local mints brought to some extent under a central authority, and their number reduced. In 1279, a skilled coiner from Marseilles was made master of the mint, with authority to make money at London, Canterbury, Bristol, and York; and under Edward III. pennies were struck only at London, York, Durham, and perhaps Canterbury, and gold coins only at London.[100]

The quality of the metal of which the English penny was composed was almost uniformly good; but in its weight there were considerable variations. In this, as in all other parts of their administration, the English sovereigns were greatly influenced by the example of the Frank kingdom. Charles the Great had taken for his standard a pound considerably heavier than that by which the Merovingian moneyers had reckoned; his pennies averaged 22·5 grains troy; and the English penny, weighing at first about 18 grains, nearly reached this standard under Egbert and Ethelwulf. But as the unity of the Frank empire disappeared under the later Carlings, western Francia reverted to its older standard, and the deniers issued during the reign of the Capetian kings weighed only about 16½ grains troy. This change was not without its influence in England: the extraordinary lightness of many of Canute's pennies, some only weighing 12 grains troy, may be explained as due to imi-

tation of the equally light Scandinavian "pening;" but the Confessor's coins were as light as those issued by his contemporaries in France, and no improvement took place under the Norman kings. Meanwhile, however, the Caroline standard, "the pound of Charles the Great," had remained in use in the eastern kingdom, the later kingdom of Germany; and the penny based upon it came to be known in England and France as the *sterling penny*, in contradistinction especially to the French denier, based on the lighter *livre Tournois*.

It seems to have been Henry II. who at last caused England to definitely revert to the earlier and heavier standard; 215 of the pence issued in 1180 are said to have weighed as much as 240 of those previously in circulation. From this time forth our whole system of weights and measures was based on the sterling penny of $22\frac{1}{2}$ grains troy or 32 wheat grains. *The Assize of Weights and Measures*, variously assigned to Henry III. and Edward I., begins thus: "By consent of the whole realm, the king's measure was made, so that an English penny called sterling, round and without clipping, shall weigh 32 grains of wheat in the midst of the ear. Twenty pence make an ounce, and twelve ounces make a pound, and eight pounds make a gallon of wine, and eight gallons of wine make a bushel of London."[101]

Not only did the Government strive thus to maintain and improve the ancient coinage of the kingdom; it took the initiative in introducing into circulation money of other denominations than that to which the people were accustomed, when it saw that they were called for by the new needs of the time. The round silver halfpennies and farthings, issued in the first half of the thirteenth century, were needed, not only in the retail trade which accompanied the multiplication of gilds and markets, but also to facilitate the commutation of agricultural services. The gold coinage of Henry III.

was indeed premature; but that of Edward III. was almost at once felt to satisfy a want. Yet so strong was the prejudice in favour of the usual penny piece, that neither of these new coinages was at first popular;[102] and we can hardly doubt that if the supply had been left to private initiative,—supposing that to have been even conceivable,—the country would have had to wait much longer than it did for these useful instruments of exchange.[103] It must, however, be noticed that the inconvenience of possessing a coinage all of one, and that a comparatively low, denomination was obviated, so far as the reckoning of payments and the keeping of accounts were concerned, by the use of what is called *money of account*, i.e. a unit or units of reckoning not actually existing as coins, but standing in some clear and universally accepted relation to the coins actually in circulation. Such were in England, from a period certainly earlier than the Norman Conquest, the pound, mark, and shilling. It was not until the reign of Henry VII., that pieces named shillings and pounds were actually struck. The difficulties caused by the practice of clipping were also doubtless largely overcome by the plan, frequently resorted to, of making large payments by *weight* and not by *tale*.[104]

England had thus been provided with a satisfactory currency; but without the constant vigilance of the Government it would soon have been lost. Counterfeit coin was struck abroad in great quantities, and brought by adventurers into England. A statute, ascribed to the reign of Edward II., distinguishes between the money "with a mitre," of which twenty shillings weigh only sixteen shillings and fourpence of English money; two sorts of money "with lions," equally light; money made of copper and blanched; money made in Germany of the same weight as the mitre money but bearing the name of Edward; copper coin thinly

plated with silver, and, finally, clipped coin. "The moneys which are made or clipt out of England are chiefly brought by merchants, and because they know that search is made for them at Dover, they put them into clothes or bales; then they come not to Dover or Sandwich, but they come to London, or into Essex, or into Suffolk or into Norfolk or to Hull, or into Lindsay, or to some other ports of England where they expect to find no hindrance. The which things, if they should be long permitted to be so, would bring the money of England to nothing." [105]

This importation of base coin, like the clipping of money within England itself, was an evil from which the country to some extent suffered throughout the Middle Ages: the Government tried to meet it by very similar measures, and especially by visiting the crime, when an offender was caught, with loss of life and goods.[106] Yet, as the danger was really greater, it called for a special organization to cope with it. Accordingly it was ordered, by the statute *De Falsa Moneta* of 1299, that the commonalty of every port should choose two wardens to enforce the prohibition. All whom they discovered bringing false money into England they were to send to the county gaol. Merchants bringing money into England, whatever it might be, were bound to give it up to the wardens: if, after assay, the money proved to be good "sterlings,"—apparently whether struck in England or no,—it was to be returned, and could be used in England; but all "money that runs in the jurisdiction of the King of France," being, as we have seen, of less weight and also of baser metal, was to be retained, and its value given to the merchants in English money. A later statute entirely prohibits the circulation of any other coin in this country than that of the King of England, Ireland, and Scotland.[107] Merchants were to take to the Tables of Exchange, set up at Dover and other ports,

all the bullion, silver plate, and silver coin they brought with them, and were there to receive English coin wherewith to carry on their trade.[108] But if foreign money was not to be brought in, it was again and again enacted that English money should not be taken out without special license of the king.[109] Englishmen about to travel abroad were to take their money to the king's Exchange at the port of embarkation, and were there to receive its equivalent in foreign money. But special license to take English money was certainly given in exceptional cases, where the merchants were able to prove to the satisfaction of the Government that such permission was necessary for their business. The prohibition went beyond the exportation of coin, and included silver in plate or in any other form; and to this Edward III., in 1335, looking forward to his new coinage, added vessels of gold. Such measures seem, at first sight, remarkably like those prompted by the "mercantile" theory in the sixteenth century, when the policy of the Government was directed towards increasing the national store of the precious metals. But throughout the legislation of the thirteenth and fourteenth centuries there is no trace of any desire to increase the amount of gold and silver in the country; its one motive is to retain within England the currency that had with so much trouble been created.[110] The only enactment that seems at all of mercantilist colour is that in a statute of 1340, that exporters of wool shall give surety to import within three months and bring to the king's exchange for every sack of wool, silver to the value of two marks.[111] But this may be regarded as an awkward device for securing for the royal mints the bullion necessary to replace the wear and tear of the currency, rather than as a deliberate plan for increasing the stock of silver in the country. The later "mercantilism," whether in the earlier form which aimed

at preventing money leaving England by direct prohibition, or in the later form which aimed at increasing the national store of money through the "balance of trade," regarded the trade of England as *a whole*, and compared it with that of other countries. But we have seen that such a view of English trade had scarcely yet begun to be entertained.[112]

We are so accustomed to the governmental monopoly of the business of coinage, that we take it as a matter of course, as a service falling naturally within "the limit of State duty." J. S. Mill thought that "no one, even of those most jealous of State interference, has objected to this as an improper exercise of the powers of Government," though "no reason can be assigned, except the simple one that it conduces to general convenience."[113] But there have not been altogether wanting theorists who have argued that it would have been better for the State to have left the currency altogether alone. Let individuals, it has been urged, issue money, if they think it profitable, and can induce people to receive it, and let us trust to self-interest to prevent a bad currency getting into circulation. Mr. Herbert Spencer, not content with arguing that the Government monopoly is a "breach of the law of equal freedom," and causes society "to pay more for its metallic currency than would otherwise be necessary," goes so far as to say that "the debasement of coinage, from which our forefathers suffered so much, was made possible only by legal compulsion, and would never have been possible had the currency been left to itself."[114] The justification, however, for the action of Government, both as to false or unauthorized moneyers in England, and as to the money of foreign countries, rests on the circumstance noticed by Sir Thomas Gresham in the sixteenth century, that, as a matter of fact, bad money drives out good, and good money cannot drive out bad. This *Gresham's law* or *theorem*

is true whether the currency is depreciated in consequence of the issue of bad money or not.[115] If it is not depreciated, and the false coins pass at their nominal value, it will become the interest of all those who have to pay considerable sums to pay in the light or base money; the good coins will be withdrawn from circulation by coiners, melted and recoined with alloy or of deficient weight, and reissued, or else exported as bullion to foreign markets and mints. If it is depreciated, the good money will sink in common estimation as much as the bad; most people, indeed, will scarcely be able to tell the difference; and it will become, in the same manner, the interest of all those who can discern the difference, to keep back the good coins and melt them down to be recoined into a greater amount of base money. Thus the inevitable result of free trade in coinage would be, not that the good would be preferred to the bad, but that the bad would altogether drive out or absorb the good, and become progressively worse. And this, in an early stage of trade, would probably have the further result that people would become suspicious of every coin, and try to do without the use of money altogether, falling back on barter. Thus the very purpose of a coinage, to assist trade to rise above mere barter, would be defeated.

But, it may be further urged, why should not the Government, while taking measures to prevent false money circulating, have permitted good money to be exported and imported according as individuals deemed it advantageous. Ricardo has argued, and most economists have agreed with him, that if complete liberty existed in this matter, a country would nevertheless always have the amount of currency needed for its exchanges. For if a country, under its own special conditions as to *rapidity* of circulation, had less currency in proportion than other countries, it would be impossible to

give as much money for a commodity there as abroad; that is to say, commodities would be cheaper there than elsewhere. It would then become the interest of foreign merchants to buy such commodities in that country, and for that purpose to take money there, since they could obtain more for it there than at home. In the opposite case, of a superfluity of currency, prices would rise, and it would be the interest of the merchants of that country to export money to purchase goods elsewhere. So that, merely by the fluctuation of price, a country must, as a rule, retain the amount of money necessary for its exchanges. "Money," says Ricardo, "can never be exported to excess;" never to such an extent "as to occasion a void in the circulation."[116]

We need not consider here whether such a proposition would be entirely true, even under modern conditions and with complete freedom of trade. But it must be noticed that, even if such an equilibratory movement of prices had been possible in the thirteenth and fourteenth century, it would have been attended with serious evils. For, throughout the Middle Ages, Europe, and therefore each nation, had a supply of the precious metals extremely small when compared with that after the discovery of America. It has been roughly estimated that the amount in circulation from the ninth to the fifteenth century was but a tenth of what it had become by the end of the sixteenth century.[117] Thus a withdrawal of money, small in itself, would have had a most embarrassing effect on domestic trade. Prices might easily have gone down to an extent which would have checked production,—especially as the difficulties of communication were so great that each market was practically dependent on the amount of money *locally* current. In the long run, money might have been drawn to England by low prices; but, meanwhile, production would have been

impeded, and, what is still more important, the whole economic teaching of the Church and the whole economic policy of the State would have been rendered impracticable. For what that teaching and policy aimed at was a *fair* price, which it was believed could only be found in a *stable, regulated* price. And free withdrawal of currency would have made such stability and regulation of price impossible.

§ 19. Next in importance to a trustworthy currency were trustworthy weights and measures. "Let there be just weights and measures," ran the decree of a council at Mainz, quoted in the *Corpus Juris Canonici.* "If any one presume to alter just weights and measures for the sake of gain, let him do penance for thirty days on bread and water."[118] We have seen that Aquinas, while laying down general principles as to trade, carefully abstains from prescribing the authorities by whom or the means by which these principles are to be enforced; it is all the more significant, therefore, that in this one matter he departs from his usual practice, and distinctly assigns to the secular authorities the duty of fixing standards of weight and quantity.[119]

As early as the tenth century, English kings had attempted to prevent the use of fraudulent measures; and the laws of Edgar, Ethelred, Canute, and William the Conqueror contain general precepts that men should avoid false measures, or that they should make their measures correct.[120] But there was no definition of what true weights and measures were, except in the enactment of Edgar that weights and measures should everywhere be the same as at London and Winchester; and it is obvious that the task of preventing fraud would be rendered all the greater if the Government came into conflict with the natural prejudice of every district in favour of its own standards.

Not before the end of the twelfth century was it possible to set about the work in good earnest. By that time a strong administrative system had been created. The plan of calling upon some four or six men in every county and town to assist the Government in enforcing its measures had been found practicable; and these local agents of the executive were supervised and controlled by itinerant judges. The method which had been effective in taxation and judicial procedure might, the ministers of Richard I. thought, be applied to this even more difficult matter. Accordingly, in 1197, was issued the *Assize of Measures*.[121] It enacted that weights and measures should everywhere be the same; that four or six lawful men in every city or borough should be assigned to carry out the assize; and that offenders should be commited to prison and their chattels forfeited. According to a later tradition of the city of London, all measures then in use were at the same time examined, and made to agree, and standards were deposited in London.[122] Next year the itinerant justices were ordered to inquire whether the assigned guardians of the assize in each town were doing their duty.[123] The regulation apparently met with general approval, for it was inserted among the articles of the Great Charter, with the addition that the measure of corn was to be the London quarter.[124]

The rule of uniformity,—not that the same measures were to be used for all articles, but that the same measure should be used in each place for the same articles,—was frequently repeated by subsequent assize, writ, and statute, especially by the assize of measures ascribed to 1303, which took the sterling penny of 32 corn grains (or 22½ grains troy) as the unit of reckoning.[125] Under Edward II., the Treasurer hit upon the plan of having model brass ell-yards and bushels made in London, and distributed over the country.

Yet it is clear that the central executive would have been unable to enforce regulations which could so easily be evaded, had they not been assisted by the local authorities; and whatever doubt we may have as to the efficacy of the earlier royal enactments, there can be no doubt that in the fourteenth century the municipal authorities in the chief towns took the matter vigorously in hand, and did succeed in compelling the use in each town of certain standards.[126] But though these enactments did much to lessen fraud, they did not secure uniformity of standard throughout the country; and local differences, as, for instance, in the number of ounces in the pound, remain until the present time.

The peculiar importance of the English cloth manufacture is shown by the fact that, while Richard's assize of measures did not for any other commodity prescribe that it was only to be sold in certain quantities, it did prescribe a necessary length and width for every piece of cloth offered for sale: "It is ordained that woollen cloths, wherever they are made, shall be made of the same width, to wit, of two ells within the lists, and of the same goodness in the middle and sides." This rule was repeated by the Great Charter, in spite of the opposition which merchants, especially at the Stamford fair, had offered to its execution. Under Edward I. a special officer was appointed to see that the assize was carried out, with "the custody of aulnage and of the assize of cloth both English and foreign sold throughout England." The office of *aulnager* existed until the reign of William III., with an importance increasing for the first century of its history, but thenceforward steadily diminishing. With the appearance of new qualities of cloth, in consequence of the immigration of Flemish weavers in the second half of the fourteenth century, the simple regulation as to two ells gave way to careful distinctions and numerous standards.

And in 1353 there was a significant change. In a statute of that year it was enacted that, whereas foreign merchants are deterred from coming to England because they forfeit their cloth if it be not of assize, henceforth cloth shall not be forfeited, but "the king's aulnager shall measure the cloth and mark the same, by which mark a man may know how much the cloth containeth, and by as much as the cloth shall be found less than the assize, allowance or abatement shall be made to the buyer."[127] The Government gave up the attempt to secure that all cloths offered for sale should be of a certain size; but it did not give up the attempt to promote honest trade by enabling the customer to easily ascertain for what he was paying. To give a public guarantee of the size and quality of certain goods, while still leaving customers and dealers to make what bargains they pleased, is a service which the Government could in many cases perform both safely and advantageously; as late as 1776 Adam Smith speaks with approbation of the stamp on cloth, as affording some real security to purchasers.

§ 20. The public authorities were not content with having thus provided society with mere instruments of exchange; with the growing trade of the thirteenth century they felt themselves bound to regulate every sort of economic transaction in which individual self-interest seemed to lead to injustice. This regulation was guided by the general principle that *just* or *reasonable price* only should be paid, and only such articles sold as were of good quality and correct measure. Most of the enactments and rules were aimed at preventing some particular form of fraud, usually in some particular article; and no hard and fast line can be drawn between the action of the central authority and that of local authorities of town or gild. Still, some of the regulations were of the nature of general rules of trade; and

some commodities were felt to be of such general importance as to make it necessary for the Government to give special attention to them. It will be convenient to follow this division in describing the measures in question.

The rules of most far-reaching consequence were those prohibiting the allied practices of *forestalling*, *engrossing*, and *regrating*,—terms which came later to have each a separate meaning, but in the thirteenth and fourteenth centuries seem to have been used almost as synonymous for any action which prevented goods from being brought by the producer or *bona fide* merchant to open market,—the forestaller or engrosser buying them wholesale, either outside the town or in the market itself, and then securing by means of monopoly a higher price than would otherwise have been paid. How such tricks of trade were regarded is clearly shown in the first legal definition of the offence, which occurs in a statute or ordinance variously ascribed to 51 Henry III. and 13 Edward I.: "Especially be it commanded on the part of our lord the king, that no forestaller be suffered to dwell in any town,—a man who is openly an oppressor of the poor, and the public enemy of the whole community and country; a man who, seeking his own evil gain, oppressing the poor and deceiving the rich, goes to meet corn, fish, herrings, or other articles for sale as they are being brought by land or water, carries them off, and contrives that they should be sold at a dearer rate. He deceives merchant strangers bringing merchandise by offering to sell their wares for them, and telling them that they might be dearer sold than the merchants expected; and so by craft and subtlety he deceives his town and his country. He that is convict thereof, the first time shall be amerced and lose the things so bought, and that according to the custom and ordinance of the town; he that is convict the second time shall have judgment of the pillory; at the third

time he shall be imprisoned and make fine; the fourth time he shall abjure the town. And this judgment shall be given upon all manner of forestallers, and likewise upon those that have given them counsel, help, or favour." [128] Among other methods of forestalling, ordinances of the same period especially mention those who buy wares in a town before the hour fixed for the opening of the market; and those who in ports go out to ships laden with merchandise as they enter, and "do buy the merchandise in gross and then do sell them at greater and dearer prices than the first merchants would do, to the grievance of the common people." [129] In the later years of Edward III. the prohibition of forestalling was again and again renewed by statute.[130] It was, as we have seen, during this period that greater freedom of trade was allowed between foreign merchants and Englishmen, and with the advantages of trade came also some of the disadvantages peculiar to its early stages.

The prohibition, it is clear from the wording of the statutes, had primary reference to those who endeavoured to secure local and temporary monopolies of the supply of food, especially of corn; though it was wide enough to cover all similar attempts with other wares. The records of the city of London furnish two excellent examples, both of the offence and of the way in which the local authorities dealt with it. The first of these is in the year 1311. Thomas Lespicer of Portsmouth had brought to London six pots of Nantes lampreys. Instead of standing with his lampreys for four days after his arrival in the open market, under the wall of S. Margaret's Church in Bridge Street, he took them to the house of Hugh Matfrey, a fishmonger; there stowed them away; and sold them a couple of days after to Matfrey, and without bringing them to open market at all. They were both brought before the mayor and aldermen, confessed their

fault, and were forgiven; Thomas taking oath that henceforward he would always sell lampreys at the proper place only, and Hugh that he would always tell strangers where they ought to take their lampreys. The other is in 1364, and, as it concerns wheat, is probably even more typical. John-at-Wood, baker, was charged before the common sergeant with the following offence: "Whereas one Robert de Cawode had two quarters of wheat for sale in common market on the Pavement within Newgate, he, the said John, cunningly and by secret words whispering in his ear, fraudulently withdrew Cawode out of the common market; and then they went together into the Church of the Friars Minor, and there John bought the two quarters at 15½*d.* per bushel, being 2½*d.* over the common selling price at that time in that market; to the great loss and deceit of the common people, and to the increase of the dearness of corn." At-Wood denied the offence, and "put himself on the country." Thereupon a jury of the venue of Newgate was empanelled, who gave as verdict that At-Wood had not only thus bought the corn, but had afterwards returned to the market, and boasted of his misdoing; "this he said and did to increase the dearness of corn." Accordingly he was sentenced to be put into the pillory for three hours, and one of the sheriffs was directed to see the sentence executed and proclamation made of the cause of his punishment.[181]

Such violent interference with the liberty of the subject seems to come into hopeless collision with all modern principles of freedom of contract. Not only does it conflict with "natural rights:" it is apt to seem obviously futile and childish, one of the curious follies of the Dark Ages. "The popular fear of engrossing or forestalling may be compared to the popular terrors and suspicions of witchcraft," says Adam Smith. "The unfortunate wretches accused of this latter

crime were not more innocent of the misfortunes imputed to them, than those who have been accused of the former." [182] He argues that the corn merchant performs a most important service to the community by equalizing supply: it is his interest to keep back corn until a time of scarcity, and by selling it then, even at a high price, he prevents the price being so high as it would have been had the supply been consumed when prices were low. But it must be noticed that these laws did not force the producer to sell at any particular time; and Mr. Rogers, whose authority is highest on mediæval prices, tells us that, as a matter of fact, "producers were very acute in doling out their supplies to the market. The most critical sales of the year were those effected in early summer, when the amount of the last year's produce was known pretty correctly, and the prospects of the ensuing harvest could be fairly guessed." [183] An argument on which Adam Smith lays even greater stress is that the prohibition of forestalling, by forcing the farmer to sell his corn by retail, compelled him "to divide his capital between two different employments: to keep one part of it in his granaries and stockyard for supplying the occasional demands of the market, and to employ the other in the cultivation of his land." This made corn dearer in two ways: by locking up part of the farmer's capital for a time, it "obstructed the improvement of the land, and therefore tended to render corn scarcer than it would otherwise have been;" and by making the sale of corn the work of men who had other occupations it prevented all those economies and advantages which accompany division of employments. But it may be doubted whether this argument has much correspondence with actual fact, even with the large farming of our own time. Whether corn is sold a month or six months after harvest, the farmer will need barns; it would certainly not be the best way to get a

profit, for the farmer always to look forward to "selling his whole crop to a corn merchant as fast as he could thresh it out." The oxen or horses which draw the plough, may be used without additional expense to carry the corn to market. If the farmer sells his corn immediately after harvest, he will indeed receive money in hand; but if the farm is well cultivated already, he will not wish to set his men to work earlier than usual; and the bailiff or yardling in the fourteenth century could not put his money in a bank and get interest on it.

But even if we grant that, under modern circumstances, the producer who added to the business of production that of distribution would need to employ as much capital in the additional business as the man who was a distributer and nothing else, it does not follow that he would require the same profit. To suppose that he would is to assume, as most economists have assumed, that "the rate of profit tends to be the same, not only on capitals of the same amount, but also on capitals of different amounts." But as Professor Sidgwick has pointed out,[134] the trouble of management by no means necessarily increases in the same proportion as the capital to be managed. Even Mill allows that a farmer "will expect the ordinary profit" only "on the bulk of his capital. When he has cast in his lot with the farm . . . he will probably be willing to expend capital on it in any manner which will afford him a surplus profit, *however small*, beyond the value of the risk and the interest . . . he can get for his capital elsewhere."[135] So that, both because he would probably not deserve the same rate of profit on all his capital, and also because he could probably not insist on getting it, a producer who also acts as dealer *may* sell his goods even more cheaply than a man whose capital is all in trade.

The above discussion touches only on the theoretic justi-

fication of Adam Smith's argument. A more useful point of view perhaps is this. The forestaller or engrosser tried to get a temporary monopoly,—to create what we now call "corners." We do not interfere with such speculation now, not from any belief in the usefulness of such speculation, but only because we do not believe it can to any large extent succeed. But the very attempt is still regarded with general disapprobation, and there are signs that "corners" would not be uninterfered with by the State if they were successful with any commodity of great social importance.[136] During the Middle Ages it may be said that economic conditions were such that individuals could, if unrestrained, control or get into their power the supply of commodities. It must be remembered that the supply, in the case of corn and other food stuffs, was necessarily a local one. Then came centuries during which supply was furnished from so many directions that individuals could not control it. At the present time, with the increasing centralization of business and facility of communication, it seems to be again becoming possible for individuals to control the supply, not, as in the fourteenth century, of a town only, but of the civilized world. And if such attempts succeed, we may come to look upon mediæval legislation with somewhat more sympathy.

§ 21. Of all articles, *bread* is that in the price of which the community is most interested. Hence it was the very first to be directly dealt with by the Government. It did not seem possible to fix an unalterable price for corn. The men of the time might perhaps have argued that if the agriculturist gave each year the same amount of labour to his land he ought to receive much the same reward, and this could not be unless he got a higher price when the harvest was deficient. All that the legislation we have just noticed attempted to do was to prevent any speculation in corn, and

any unnecessary interference of middlemen. There is, indeed, in the London records, circ. 1291–1307, an entry referring to "men sworn to watch that no one sold his corn above the just price." [137] And the town magistrates were ready to punish with pillory or imprisonment any persons fraudulently enhancing prices; as, for example, in 1347, a man who caused two bushels of corn belonging to him to be brought to market, and then, "to the increase of the dearness of corn, offered for a bushel of his own wheat 1½*d.* beyond the common selling price of the bushel of wheat in that market on the same day sold." [138] Somewhat later there is a case in which a man was sent to the pillory merely for following a servant about in the market with a sample of wheat in his hand, and saying that "such wheat as that he would not be able to buy at a lower price than 21 pence per bushel; whereas, on the same day, and at that hour, the same servant could have bought such wheat for 18 pence." [139] But it is clear, even from these examples, that the fair price was left to be determined by free chaffering of the market-place.

And accordingly, in limiting the price of bread, it was not attempted to establish an invariable standard, but only a sliding scale, according to which the *weight* of the farthing loaf should vary with the price of the quarter of wheat. Such an *Assize of Bread* was first proclaimed in 1202, coming in natural sequence after Henry II.'s reformation of the coinage and Richard I.'s assize of measures.[140] In later reissues the various sorts of bread were distinguished, and the relation in which their weights should stand to "wastel bread of a farthing, white and well baked," was carefully fixed. The most important of these ordinances is the *Assize of Bread and Ale* attributed to 51 Henry III.[141] This contains a scale fixing the change in weight of the farthing loaf for each variation of sixpence in the price of the quarter of wheat

from twelve pence to twelve shillings: it allowed, therefore, for prices considerably lower and considerably higher than were at all usual, for during the period 1259–1400 the average was 5*s.* $10\frac{3}{4}$*d.*; it fell but once below 3*s.*, namely in 1287, and then only to 2*s.* $10\frac{1}{4}$*d.*; only in the two years of famine, 1315–1316, did it rise above 12*s.*[142] The assize declared, on the authority of the king's bakers, that, at the appointed weights, "a baker in every quarter of wheat may gain fourpence and the bran, together with two loaves for the furnage (for the cost of the oven, or for oven-dues?), three halfpence for three servants (journeymen), a halfpenny for two lads (apprentices); for salt a halfpenny, for kneading a halfpenny, for candle a farthing, for wood twopence, for the sieve three halfpence."[143] If a baker violates the assize he is to be fined; if the deficiency of weight is great he is to be put into the pillory. The contemporary ordinance called *Judicium Pilloriae*, which orders that six lawful men in each town shall have the supervision of weights and measures, directs them to inquire into the price of wheat last market day, and fix the weight of "wastel of a farthing" in accordance with the assize.[144] The enforcement of the assize soon became part of the work of the ordinary municipal authorities. It is ordered by a statute of Edward II. that officers in cities or boroughs who by reason of their offices ought to keep assizes of victuals, so long as they are attendant to those offices, shall not merchandise for victuals, neither in gross nor by retail.[145] At the end of the fourteenth century the maintenance of the assize was added to the duties of the justices of the peace.[146]

How it was enforced may be illustrated by a case which came before the mayor and aldermen of London in 1321.[147] A certain William le Bole, a partner with another baker in an oven in Bread Street,—clearly the home of the

London bakers,—was charged with making light or "cocket" bread of less than the proper weight. Two "bladarii," or corn-dealers, gave evidence that on the last Wednesday market day the quarter of good wheat was sold for eight shillings; "to this twelve pence being added for the wages of the bakers and other necessaries in baking, the quarter is worth nine shillings." The halfpenny loaf of light bread should, therefore, they say, "weigh 43*s.* 3½*d.*" William le Bole foolishly declared the bread was not of his baking, and that he was not a partner in the bakery in question. At that, the sheriff was bidden empannel a jury of twelve men of the ward of Bread Street, and of other neighbouring wards; and these gave verdict that the accused was a partner, and that his bread was 3*s.* 10½*d.* under due weight. Whereupon, for the double offence of breach of the assize and denial of the co-partnership, William le Bole was condemned to be drawn through the city on the hurdle. This penalty for baker's fraud is said to have been first imposed by the mayor in 1283; and it was not discontinued until the reign of Henry VI.[148]

From bread the legislator naturally turned his attention to the other necessary of mediæval life, *ale*. The *Judicium Pilloriae* adds to its rules as to bread and as to forestalling, a short scale fixing the number of gallons of ale to be sold for a penny, according to variations in the price of the quarter of barley: when the quarter is at 2*s.*, then 4 gallons for a penny; at 2*s.* 6*d.*, then 3½ gallons; 3*s.*, then 3 gallons; 3*s.* 6*d.*, then 2½ gallons; 4*s.*, then 2 gallons; and so downwards, half a gallon less for every sixpence.[149] The average price of barley during the period was 4*s.* 3¾*d.*, so that the consumer had probably to be satisfied as a rule with two gallons of ale for his penny. As the average annual price only four times during this period fell below 2*s.* 6*d.*, the

legislator seems to have been unduly hopeful in his forecast.[150] Henceforward bread and ale were always associated: brewers were supervised in the same way as bakers, and punished in the same way if they violated the assize.

There was a very considerable importation of French, especially of Gascon, *wine* into this country. Its average price was little more than twice the price of ale; and there is good evidence that it was consumed pretty generally by the middle classes, and especially in the towns.[151] As early as 1199 the Government had attempted to regulate its price, both wholesale and retail; but instead of devising some sort of sliding scale, it adopted the less satisfactory plan of fixing rates beyond which the prices of the various sorts,—wine of Anjou, wine of Poitou, and French wine,—were not to rise. But "the merchants could not endure this assize," and they were granted permission to sell wine at a price half as large again.[152] Yet the same plan of fixing a maximum price was adhered to throughout the next century. A "sextary" for twelve pence was the appointed price: if taverners demanded more than this, the mayor or bailiff was to cause their shop doors to be shut, and prevent their carrying on trade until they gained permission from the king;[153] and the municipal authorities were urged not to wait until the arrival of the king's justices before they inquired into violations of the assize.[154] It is apparent, however, from a statute of 1330, that these measures were not put into execution. In that year, Parliament complained that the increasingly large number of taverners in the realm sold unwholesome wine, and also charged unduly high prices "because there was no punishment ordained for them as hath been for them that have sold Bread and Ale." It was accordingly enacted "that none be so hardy to sell wines but at a *reasonable price*, having regard to the price at the

ports, and the expenses, such as the carriage from the port to the place of sale." Twice a year the mayors or bailiffs of towns were to make assay of wines, and pour away all that was found corrupt.[155] It would seem, however, that this statute only extended to other towns what had been ordered by royal writ for London in 1311: doubtless the men appointed by the municipal authorities every half-year to examine the quality of wine, exercised the power which we know they had in London, of at the same time fixing the price of wine of each sort until the next assay.[156]

After the middle of the fourteenth century the price of wine at least doubled,—a rise easy to explain by the plague and the French war.[157] From that time onward it became increasingly difficult to regulate prices; and the government tried in vain to influence the price at which wine was imported by alternately prohibiting and encouraging English traders to export it themselves from France instead of leaving the business in the hands of Gascogners. But these difficulties fall outside the period we are here considering. It is interesting to notice that the great fight in the streets of Oxford in 1354, between town and gown, arose from a dispute between a scholar and a taverner over a quart of wine, and that one of the results of it was to cause the king to "grant to the chancellor of the university, excluding the mayor entirely, the complete supervision of the assize of bread, ale, and wine, and all victuals."[158]

In curious contrast with its anxiety about the price of bread, the central Government left the regulation of the price of *meat* entirely to the local authorities, contenting itself with the enactment that butchers selling unwholesome meat should be severely punished.[159] In London the butchers were under the supervision of wardens, whose duty it was to bring unwholesome meat before the mayor and alderman. The

accused had the right of demanding "inquisition" by a jury into the character of the meat; and if it was condemned he was punished by being put into the pillory, and having the meat burnt before his face.[160] The municipal authorities also, at least as early as the later years of Edward I., fixed maximum prices for the carcases of oxen, cows, sheep, and pigs.[161]

The town magistrates, indeed, were not less anxious than were Parliament and the ministers to keep the trade in articles of food under due control. Besides carrying out the assizes of bread, ale, and wine, they issued ordinances regulating the prices of poultry and fish, appointing the markets at which each sort of food was to be sold, and providing for their supervision.[162] Accounts of punishments inflicted on persons selling unwholesome food form a very considerable part of the town records.[163]

Among craftsmen some were more than others subject to regulation by the town magistrates. They were such as had no fixed shops, but moved about from place to place to perform particular pieces of work, "carpenters, masons, plasterers, daubers, tilers, and the servants of such."[164] An ordinance of the mayor and aldermen of London in the reign of Edward I. fixed the wages of "masters" in all these crafts at fourpence a day between Michaelmas and Martinmas, or three halfpence and food at the employer's table, whichever the employer may prefer; between Martinmas and Candlemas threepence, or "one penny and the table;" between Candlemas and Easter fivepence, or "twopence and the table." Journeymen are to receive less. "Paviours" are at all seasons to receive twopence for making a piece of pavement, 7½ feet long and 1 foot wide; carters for every cart of sand or gravel of a certain quantity, one penny. "If any man of the city give more to any workman than is here written and commanded, let him be amerced to the city in forty shillings, without any pardon."

There were, however, but few other cases in which the municipal authorities attempted to regulate wages or prices before the middle of the fourteenth century. It will be well, for the present, to confine ourselves to the period preceding the Black Death, and to leave the question what effect that calamity had upon industrial policy to a later section. No doubt the town magistrates claimed the right to regulate wages when they thought proper; and this right they occasionally exercised; *e.g.* in London, to regulate blacksmiths' charges for shoeing horses.[165] This was a matter in which a traveller in a hurry might be at the mercy of a blacksmith. So also the charges to be made by curriers[166] and leather-dressers[167] were limited. But, as a rule, the price of manufactured goods seems to have been left to be determined by the rules of the gilds; the limitation in London of the price of spurs by civic ordinance is an almost solitary example to the contrary.[168] Unfortunately we have too little evidence to be able to speak with confidence as to how the gilds regulated prices. In many crafts the artisan did not purchase the material himself, but received it from a customer to be made up, and received a payment for his service: these payments in each craft were doubtless fixed by custom and common consent, and overcharges seem to have been punished.[169] The amount of remuneration when the artisan only did the work and did not provide the material would doubtless help to determine the price to be paid for an article when it was bought ready made. The weak point in the system was that when once the gilds became firmly established they tended to limit their numbers and to raise prices. This was a danger very apparent in the later years of the fourteenth century, but even as early as 1321 it had begun to show itself in the conduct of the London weavers. The weavers' gild had been the earliest to come into ex-

istence: it had been forced to carry on a long struggle with the municipal authorities for the very right of existence; and now, within twenty years after its final victory, it is found limiting the supply of cloth and the number of men in the trade. Yet the gilds were not left altogether without check: for the wards of Candlewick (*i.e.* Cannon) Street and Walbrook presented the weavers before the king's justices, on the charge that "by confederacy and conspiracy, in the Church of S. Margaret Pattens, they ordained among themselves that for weaving each cloth they should take sixpence more than anciently they had been wont;" and it would appear, though the record is imperfect, that they were obliged to return to the old charges.[170]

§ 22. The direct action of the Government influenced the economic life of society in many other respects, both in the way of facilitating trade, and also by limiting it in certain directions. Of these limitations the most important was the prohibition of usury. In the compilation known as the *Laws of Edward the Confessor*, drawn up probably early in the twelfth century, Edward is said to have ordained forfeiture and outlawry as the penalty for usury: "the king used to say that he had heard, when he was staying in the court of the king of France, that usury was the root of all vices."[171] But with the growth of separate ecclesiastical courts, cases of usury were removed from lay jurisdiction: the author of the *Dialogue on the Exchequer*, writing about 1178, is careful to point out that "against an usurious clerk or Christian layman the royal power has no action, while he is yet alive, but he is reserved to the ecclesiastical jurisdiction to be condemned according to his rank;" though, upon his death, if he had not worthily repented,—*i.e.* directed by will that restitution should be made to those from whom he had obtained his unjust gains,—his chattels were forfeited to the king.[172]

This compromise between the two jurisdictions was confirmed by a statute of 1341: "The king and his heirs shall have the cognisance of usurers dead, and the ordinaries of Holy Church shall have the cognisance of usurers living, as to them pertaineth, to compel them by the censures of Holy Church for their sin, to make restitution of the usuries they have taken against the laws of Holy Church."[173] But so far were ecclesiastics from being in advance of public opinion, that in the later years of the fourteenth century Parliament frequently complained of the laxity of the Church courts: and, as early as 1363, the municipality of London were specially empowered by the king to make regulations against the evil. In a case brought before the mayor and aldermen in 1377, the usurer was sentenced to forfeit double the interest he had demanded.[174]

In spite of the law of England and Christendom, a trade in money which the opinion of the time regarded as usurious was carried on in the thirteenth century by the Caursines, and in the fourteenth century by Lombards. The means by which they evaded the penalties of the ecclesiastical courts are of especial interest, as showing the development of a theory which in the sequel did much to weaken the force of the prohibition of usury, the theory namely of "*interest*," in the original sense of that word. According to Roman law, when one party to a contract, whether of sale, hiring, or of any other sort, did not perform his part, he could be forced not only to perform the promised act or pay an equivalent, but also to recompense the other party for any loss which might have accrued to him by the non-fulfilment,—to make up *id quod interest*, i.e. for *the difference* between the man's present position and what it would have been if the contract had been fulfilled. Thus, suppose you had bargained to sell a horse and did not transfer the horse to the pur-

chaser at the appointed time, and suppose the latter were a doctor and had lost the fee he might have earned through being unable to ride to a patient, you might be compelled not only to restore the purchase-money but also to make up for the loss sustained.[175] Early mediæval legists divided the cases in which such a claim could be put forward to those of *damnum emergens* and *lucrum cessans*, *loss arising*, or *gain prevented*, by the non-fulfilment of an obligation. And they urged that such a claim might be properly put forward by a lender if the borrower did not *repay a loan* at the appointed time. The doctrine was early accepted by the schoolmen and canonists, so far as resultant *loss* was concerned: and Aquinas grants that this recompense may justly be previously bargained for: "A man who lends may, without sin, contract with the creditor [to receive] recompense for a loss. . . . This is not to sell the *use* of money [*i.e. usury*] but merely to avoid loss." But the claim to recompense for the cessation of *gain* was one which the earlier canonists were loath to recognise. They held that with the transfer of coins went the right to use them and make what profit was possible; and that accordingly the lender, when he handed over the coins, gave up any such claim. "Recompense for loss deemed to arise from the money not bringing any gain cannot be bargained for," says Aquinas, "for a man ought not to sell what he has not got." [176] Accordingly it was for a long time difficult for civil lawyers to lay stress on this ground for compensation, and consequently they turned with all the more zest to the consideration of *damnum emergens*. They began by laying down the rule, "Interest is only owing where there has been *delay*." [177] To have argued that the mere fact that money was lent implied in itself a loss or inconvenience to the lender which called for reward, would have brought them

into violent conflict with the whole doctrine of usury. Only when the time for repayment had passed, and the debtor still did not pay, did the creditor begin to gain a right to more than the bare sum lent. What the inconveniences or losses of the waiting creditor might be were not very clearly defined: the lawyers contented themselves with imagining cases in which the creditor might suffer loss, as, *e.g.* by inability to pay taxes.[178] But they came to this pregnant conclusion: since it is allowable to a man to avoid loss to himself, he may justly bargain for a *definite* reward to be paid for the loss he will receive by a delay in payment.

The proceedings of the Caursines in England show the use which could be made of such a principle. How the town of Cahors gained so evil a reputation as the home of usurers that Dante puts it by the side of Sodom, the home of fleshly sin, in his "Inferno," does not seem to be known; the term "Caursine" was probably very loosely applied in England to money-merchants from southern France, and sometimes perhaps to merchants from Italy. They first came to England about 1235, as "papal merchants," *i.e.* to assist in the collection of papal revenues in England, and in sending them to Rome: and Matthew Paris tells us how even the king was heavily in their debt; and how they cozened the needy, "pretending not to know that whatever is added to the capital is usury, however it may be called." Roger, bishop of London, in vain admonished them to desist from their enormities. He went so far as to excommunicate them, and to order them to withdraw from his diocese, especially from the city of London, "which up to that time had been ignorant of such a pestilence." But, the same chronicler tells us, the Caursines had such influence at Rome that the bishop was summoned thither, and forced to give up his attempt to expel them.[179] In 1240, "the king's eyes were opened,"

and they were banished; but many were able by means of bribery to conceal themselves in England.[180] Most of these, however, left in 1245, when the papal legate was ordered to withdraw.[181] But in 1251 they were again numerous and prosperous in London, and establishing themselves in great palaces; defying the prelates as merchants of the pope, and defying the populace through the protection of the magnates, some of whom Matthew Paris accuses of intrusting money to the Cahorsines to trade with. But the king's conscience was aroused, and many of them were in that year brought before the secular courts, and condemned to imprisonment.[182]

How it was that they were able to evade the laws both of Church and State, and so make it possible for the popes to protect them, is seen from the form of acknowledgment of debt which they obtained from those to whom they had lent money. A copy is preserved by Matthew Paris.

"N the Prior, and the convent of M, to all who shall see this present writing, greeting in the Lord. Know that we have received at London . . . from A and B, for themselves and their partners, citizens and merchants of the city of C, a hundred and four marks of good and lawful sterlings. . . . Which marks aforesaid we promise by lawful agreement, and are bound in the name of ourselves and our Church wholly to restore and repay, to the aforesaid merchants, or to one of them, or to an agent of theirs who shall bring with him this letter, . . . on August 1, at New Temple in London, the year of Our Lord's Incarnation 1235: with this added condition, that if that money is not paid at the appointed place and time, then, the appointed period being over, we promise thereafter . . . to pay them . . . every two months one mark for every ten marks as a recompense for losses [pro recompensatione damnorum],—such losses and expenses as they may thereby incur or suffer; so that [recompense for]

losses, and expenses, and the capital may be sued for, together with the expenses of one merchant with one horse and one servant, wherever the merchant may be, until the full payment of all the aforesaid. The expenses also caused or that shall be caused in the recovery of the money we will pay and restore to the merchants, or one of them, or their agent. This recompense for losses, interest, and expenses [recompensatio damnorum, *interesse*, et expensarum], we promise not to reckon as part of the principal. . . . To fulfil the above promises we bind ourselves and our Church and our successors, and all our property and that of our Church, moveables and immoveables, ecclesiastical and secular, present and to come, wherever found, to the aforesaid merchants and their heirs, until full payment of the above, recognizing that we hold our property at their good will. And for the aforesaid we are willing to answer anywhere and before any tribunal [in omni foro conveniri], renouncing for ourselves and our successors any aid from either canon or civil law, privilege of clergy and (clerical) jurisdiction, . . . from customs or statute, letters, indulgences, or privileges obtained or that may be obtained on behalf of the king of England and his subjects from the Apostolic see, . . . the benefit of restitution, the benefit of appeal, letters of inhibition from the king of England, and every other objection against this instrument. In witness whereof we have placed our seal to this present document, April 19, 1235." [183]

In this example, doubtless a genuine one, a sum of money is borrowed nominally only for a little over three months. If the convent chanced to be able to repay it on August 1, nothing would have to be paid for the loan: but from that date onward they were to pay for the loan at the rate of sixty per cent. per annum, seventeen per cent. higher than the Jews were permitted to bargain for. It is obvious that

if this were permitted, all that the money lender needed to do to make himself safe was to allow a period during which the loan was gratuitous: but this period could be made very short, and the lender was not likely to make loans except to those who were not likely to pay on the nominal settling day. Yet it is interesting to notice the care the lender takes to make the borrower renounce any protection he might receive from the canon law and from ecclesiastical courts. The terminology of the agreement is still a little obscure: it is not quite clear whether the payment of one mark for ten every two months is the only obligation of the borrower, beside the repayment of the capital; but it is probable that is the meaning, and the repetition of the words "loss" and "expense" is only in order to give an apparent justification for the monthly payment. Probably this was not the only formula used by the Caursines. Grossteste is represented as lamenting on his deathbed over these extortions of "the merchants and exchangers of our lord the pope:" they force a man, he says, who borrows a hundred marks from them promising to pay a hundred pounds at the end of the year, to sign an acknowledgment that he has received a hundred pounds; and they are harder than the Jews, for if, after a short time, the borrower offers to repay, they will not take less than a hundred pounds, while the Jews would only ask for the interest on a hundred marks for the time the borrower has actually kept the money.[184]

Just as the pressure of need led prelates and religious communities, themselves perfectly aware of the prohibition of usury, to borrow money from usurers, so there can be little doubt that some of the popes, engaged at this time in their struggle with the Emperor Frederick II., and anxious for all the aid the Caursine merchants could give them in raising money, were disposed to protect them however near

they might sail to the wind, provided they did not break the letter of the canon law. It is indeed very evident that legislation, both papal and royal, was due far more to the teaching of theologians and to a strong public opinion than to abiding dislike of usury on the part of the legislators themselves. This is strikingly brought out by the history of the Jews in England. Their unpopularity is not sufficiently explained merely by the statement that, while the king pillaged them, he permitted them to pillage the Christian population: it was rather because, to gain protection for themselves, they were obliged to make themselves the means by which the king pillaged the nation.[185] In 1194, it was ordered by Richard I. that loans made by Jews should in each town be made only in the presence of two appointed Christians and two appointed Jews and two clerks: the acknowledgment of debt was to be duplicated, one copy given to the Jew lender, the other put in a chest or coffer, under the charge of the officials before mentioned. No change was to be made save in the presence of the wardens of the chest. When the debt was repaid, the creditor gave the debtor a release, which he had to present to the wardens, receiving from them thereupon the copy of the acknowledgment (carta) in the coffer. Such coffers existed in about twenty-six towns.[186] On this basis, and probably about the same time, was created the Exchequer of the Jews at Westminster,—a branch of the great Exchequer, with its own justices and officials, and with cognizance of all suits between Christians and Jews. At intervals the king imposed heavy tallages on the Jews,—bringing in an amount equal on an annual average to about a thirteenth of his revenue.[187] Before the order was issued it was usual to command a scrutiny or registration to be made of all the charters contained in the chests in the various towns, and after this

had been done the chests were sealed up. A considerable number of Jews were sure not to be able to pay the tallage, whereupon their "debts" were confiscated: the charters acknowledging debts to them were sent up to the Exchequer of the Jews, and their creditors were forthwith called upon to pay the king or make terms with him.[188] The king's right of tallaging the Jews was therefore an indirect right of tallaging the people: hence the clauses of Magna Carta ordering that interest shall not accumulate during a minority, and that wives of dead debtors should have their dower, were really directed against the king: and the expulsion of the Jews in 1290 is to be placed by the side of "the confirmation of the charters," as, like it, a concession to a constitutional demand. And just as great men were accused of making usurious profit on money which they put into the hands of the Caursines, so it was complained by the barons, in 1257, that the Jews,—doubtless to buy protection,—sometimes transferred their debts to powerful men, who took the opportunity thus given to them to obtain possession of lands which had been pledged to the Jews for payment.[189]

The rate of "gain" that Jews were permitted to receive and usually did receive during the thirteenth century, was twopence per week on every pound, *i.e.* about $43\frac{1}{3}$ per cent. per annum.[190] It was to meet the troubles caused by poor Oxford scholars borrowing at such an exorbitant rate, that Grossteste, while chancellor, established the first "chest," that of S. Frideswide. Out of this loans were made gratuitously to scholars whose annual income was less than two marks, and in it were placed the articles of clothing or books which they gave in pledge.[191] This example was followed by benevolent persons, until in the fifteenth century there were a dozen or more of such chests.[192]

§ 23. Lastly, mention must be made of the great service which the Government rendered to commerce and trade by the establishment of a simple procedure to enforce the payment of ordinary mercantile debts. This was by the Statute of Merchants or of Acton Burnell in 1283. Merchants, the preamble begins, have often been injured by there being "no speedy law" to have recovery of their debts, and many merchants have consequently refrained from coming into the country. In future a merchant is to have the power of bringing his debtor before the mayor. If he proves the debt, the debtor must affix his seal to a "bill obligatory," binding himself to pay on a certain day. If he does not do so, he can be brought again before the mayor, who shall at once cause his movables to be sold up to the amount of the debt. If no buyer can be found, movables up to the amount are to be given over to the creditor; if the debtor has no movables within the mayor's jurisdiction, the mayor is to send the necessary information to the chancellor, who shall then cause a writ to be sent to the sheriff within whose county the debtor has movables, ordering them to be distrained upon. If the debtor has no movables, he is to be imprisoned until he comes to terms, or his friends make terms for him, the creditor meanwhile providing him with bread and water, the cost of which is to be added to the debt. If the debtor has secured sureties, they are to be proceeded against in the same way, though not unless the debtor has not sufficient property himself to pay. Foreign merchants are empowered to add to the sums owing to them the cost of their own maintenance while waiting for the debts to be paid.[193]

The statute was of too innovating a character not to meet with difficulties in its execution. Two years later it was re-enacted more precisely, because "sheriffs sometimes

by malice and false interpretation delayed the execution of the statute."[194] In 1311, it was enacted among the ordinances that this statute should only apply to merchants, and to debts arising from the sale of goods: at the same time the number of places at which such suits might be heard was increased from the three (London, York, Bristol) mentioned in the statute of the preceding king to twelve: Newcastle, York, and Nottingham, "for the counties beyond Trent, and the merchants there coming and abiding;" Exeter, Bristol, and Southampton, for "the parts of the south and west;" Lincoln and Northampton for merchants there; London and Canterbury, Shrewsbury and Norwich.[195]

From this time onward foreign merchants would find no great difficulty in recovering debts owing to them from native traders: especially after the Carta Mercatoria, in 1303, had established the rule that in suits between foreigners and Englishmen the juries should be composed half of English, half of natives of the place whence the foreigner came. But difficulties long remained in the way of the recovery of debts by an Englishman from a foreigner no longer residing in this country. In such cases the English municipal authorities had been wont to confiscate any goods they might be able to seize, belonging to any merchant from the same town. This rude method of retaliation was but gradually given up. Henry III., in the later years of his reign, granted letters of protection to Ghent, Bruges, Ypres, Douai, S. Omer, and Lübek, promising that their citizens trading in England should be held responsible only for their own debts, or debts for which they had made themselves sureties.[196] But this rule was not made of universal application until 1353. In a statute of that year it was enacted that merchants should only be sued for their own debts or those of persons whose "pledges" they had been:

but if English subjects were injured by the lord of any foreign land or her subjects, the king threatens to exercise the right of reprisal, if the foreign prince, having been duly warned, fail to provide that justice should be done.[197] It has been shown in an earlier section that the usual practice at the middle of the century, when a debtor residing abroad refused to pay, was for the English municipal authorities to write to the authorities of the foreign town to which he belonged, threatening reprisal unless the debt were paid.

We are now, perhaps, in a position to sum up the characteristics of the period we have been considering. It was one in which, out of and alongside of a *village economy*,—a condition of things in which almost all the economic life of the country was concentrated in a number of agricultural groups,—had grown up a *town economy*, where manufactures and trade were fostered and monopolized by civic communities, becoming more and more unlike the agricultural population, yet stimulating agriculture by providing markets. Within the manor groups, though there was little apparent change in everyday life, the plan of commutation of services was preparing the ground for the more violent changes that were to come: within the towns, the burgher monopoly was slowly broken down by native artisans and foreign merchants. Dealings between man and man were influenced by principles which have almost disappeared from modern life, but which were then, to at least a large extent, enforced by the authority of Church and State. The royal authority secured for society trustworthy instruments of exchange; and by helping to break down the privileges of isolated town communities, prepared the way for the idea of a *national economy* to make its appearance in the sixteenth century.[198]

NOTES.

1. (*a*) S. Matt. vi. 19, 20, 24: S. Mark iv. 19: (*b*) S. Matt. xix. 23, 24; S. Luke xviii. 24, 25: (*c*) S. Matt. xix. 21; S. Luke xviii. 22; this was the message which moved Francis of Assisi to the vow of poverty: (*d*) S. Luke vi. 20, 21, 24, 25: (*e*) S. Matt. vi. 25–32: (*f*) S. Luke vi. 29–31; (*g*) Acts iv. 32, 34, 35.

2. Qu. in *Corp. Jur. Canonici, Decreti I.*, distinctio 47, c. 8 (ed. 1618, p. 54).

3. *Ancient Law*, ch. iv. "Similarity" is, perhaps, a fitting term for some of the most important meanings of *ἰσότης*, "the principle of equal distribution," and of *aequitas*, "levelling," or "the neglect of demarcations;" *ib.* 58–61.

4. Justinian's *Institutes*, ed. Moyle, i. 92; *Cor. Jur. Canonici, Decr. I.*, dist. i., c. vii.; "Jus naturale est commune omnium nationum, eò quod ubique instinctu naturae non constitutione aliqua habetur, ut viri et foeminae conjunctio, liberorum successio et educatio, *communis omnium possessio et omnium una libertas*," to which it goes on to add, not very logically, "Acquisitio eorum quae coelo, terra, marique capiuntur, item depositae rei vel commendatae pecuniae restitutio, violentiae per vim repulsio."

5. Qu. in *Corp. Jur. Canonici, Decr. II.*, causa 12, quaestio 2. See also the quotations in Kautz, *Geschichtliche Entwickelung der National-Oekonomik* (1860), i. 205.

6. The contrast between Christian teaching and that of the Stoics is pointed out by Lecky, *Hist. of European Morals*, i. 203, 204; ii. 1–4; cf. *Ecce Homo*, pref. to fifth ed., xi. (ed. 1883). Roscher points out that mediæval theology regarded the relief of the poor not as a matter of *voluntary* charity, but as an obligation,—what Aquinas calls *debitum legale*; *Gesch. der Nat. Oekonomik*, 6.

7. Tertullian, *De Idolatr.*, 11; qu. Knies, *P. Oe. vom Geschicht. Standpuncte*, 116, n. 3.

8. Kautz, 209.

9. "Merito dictum negotium, quia negat otium, quod malum est, neque quaerit veram quietem, quae est Deus;" in *Corp. Jur. Canonici, Decr. I.*, dist. 88, c. 12 (ed. 1618, p. 95, col. 2).

10. *Epist. ad Rusticum*, c. 9: "Qualitas lucri negotiantem aut excusat aut arguit; quia est honestus quaestus aut turpis;" qu. Knies, 116, n. 4.

11. *Decr. I.*, dist. 91, c. 3: "Clericus victum et vestimentum sibi *artificiolo vel agricultura*, absque officii sui duntaxat detrimento, paret."

Cf. on the subject generally, Endemann, *Die Nationalökonomischen Grundsätze der canonistischen Lehre*, § 17.

12. Cf. Roscher, *Geschichte*, 6: "Bei der Beurtheilung dieser asketischen Einseitigkeit darf man nicht übersehen, dass sie im Zeitalter der früheren Kirchenväter eine ebenso natürliche wie heilsam Reaction war gegen den Egoismus des römischen Rechts, und dass nachmals ihre Fortdauer während des germanischen Mittelalters gegenüber dem Faustrechte, dem alle niederen Kulturstufen huldigen, ebenfalls nur wohlthätig wirken konnte."

13. Ortolan, *Roman Law* (Engl. trans.), 528, 532. Cf. Lyte, *Hist. of Univ. of Oxford*, (1886), 55.

14. Cf. Maine, *Ancient Law*, 261; *Early Hist. of Institutions*, 391; *Early Law and Custom*, 343, 344.

15. Lyte, 11, and references there given.

16. Maine, 82, 13, 44.

17. S. Matt. vii. 12; S. Luke vi. 31.

18. *Digest IV.*, iv. 16 (4); *XIX.*, ii. 22 (3): "Quemadmodum in emendo et vendendo naturaliter concessum est quod pluris sit minoris emere, quod minoris sit pluris vendere, et ita invicem se circumscribere, ita in locationibus quoque et conductionibus juris est."

19. *Codex IV.*, xliv. 2: "Rem majoris pretii si tu vel pater tuus minoris pretii distraxit, humanum est, ut vel pretium te restituente emptoribus *fundum* venditum recipias *auctoritate intercedente judicis*, vel, si emptor elegerit, quod deest justo pretio recipies. Minus autem pretium esse videtur *si nec dimidia pars veri pretii soluta est*" (*ib.* ii., 179) See Hunter, *Roman Law*, 318.

20. Augustine, *de Trin.*, 13, 3: "Scio ipse hominem, quum venalis codex ei fuisset oblatus, pretiique ejus ignarum et ideo quiddam exiguum poscentem cerneret venditorem, justum pretium, quod multo amplius erat nec opinanti dedisse." See Knies, 117. The phrase "justum pretium" occurs in the later Roman law, as in the rescript quoted in the previous note, so that the statement in the text is scarcely accurate; but its use by the later Fathers and schoolmen seems to have been derived from Augustine.

21. *Summa Theologica, Secunda Secundae*, quaestio lxxvii., articulus i.: "Justum enim in commutationibus humanae vitae secundum leges civiles determinatur. Sed secundum eas licitum est emptori et venditori ut se invicem decipiant" (ed. Paris, 1664, t. 22, p. 144).

22. Aquinas is, however, especially careful to point out that though everything really has some one just price, this cannot always be exactly determined, and therefore restitution should not be insisted upon unless

the injury done by a wrongful price is considerable: "Lex divina nihil impunitum relinquit quod sit virtute contrarium. Unde secundum divinam legem illicitum reputatur si in emptione et venditione non sit *aequalitas justitiae* observata; et tenetur ille qui plus habet, recompensare ei qui damnificatus est, si sit *notabile* damnum. Quod ideo dico, quia istud pretium rerum *non est punctualiter determinatum*, sed magis in quadam aestimatione consistit; ita quod modica additio vel minutio non videtur tollere aequalitatem justitiae," *ib.*

23. J. S. Mill, *Political Economy*, bk. iii., ch. 3. The explanation of mediæval Church teaching, as aiming at determining price by the cost of production, was probably first suggested by Knies, part ii., § 3 (ed. 1883, p. 116); cf. Gunningham, *Engl. Industry and Commerce*, § 43, pp. 171–173.

24. Fawcett, *Manual of Pol. Econ.*, bk. iii., ch. 4 (sixth ed., p. 339). For purposes of comparison this modern theory is here stated without criticism; but Mr. Sidgwick has recently pointed out (*Principles of Pol. Econ.*, bk. ii., ch. 2) that "cost of production cannot to be assumed to be independent of demand." The quotation on p. 137, as to the doctrine of value not being "the sure stronghold," is from Gustav Cohn, professor at Göttingen; *System der Nationalökonomie*, (1885), i. 488.

25. Cf. Endemann, *Studien in der romanisch-canonistischen Wirthschafts- und Rechts-lehre*, ii. 37.

26. "Utrum venditio reddatur illicita propter defectum rei venditae" is the heading to *articulus* 2.

27. *Ib.*: "In unoquoque loco ad Rectores civitatis [probably meaning primarily *city* authorities] pertinet determinare quae sint justae mensurae rerum venalium, pensatis conditionibus locorum et rerum. Et ideo has mensuras publica auctoritate *vel consuetudine* institutas praeterire non licet."

28. *Ib., artic.* 3: "Cum enim venditor emptorem ad emendum non cogat, videtur ejus judicio rem quam vendit supponere. . . Non ergo videtur imputandam venditori, si emptor in suo judicio decipitur, praecipitantur emendo, absque diligenti inquisitione de conditionibus rei."

29. *Ib.*, "Si vero vitium sit manifestum; putà cum equus est monoculus; vel cum usus rei etsi non competat venditori, potest tamen esse conveniens aliis; et si ipse propter hujusmodi vitium subtrahat quantum oportet de pretio; non tenetur ad manifestandum vitium rei; quia forte . . . emptor vellet plus subtrahi de pretio quam esset subtrahendum."

30. *Ib.*: "Dicendum quod judicium non potest fieri nisi de re manifesta. . . . Unde si vitia rei quae vendenda proponitur sint occulta, nisi per venditorem manifestentur non sufficienter committitur emptori judicium."

31. *Ib.:* "Dicendum quod vitium rei facit rem *in presenti* esse minoris valoris quam videatur. Sed, in casu premisso, *in futurum* res expectatur esse minoris valoris per superventum negotiatorum qui ab ementibus ignoratur. Unde venditor qui vendit rem *secundum pretium quod invenit*, non videtur contra justitiam facere si quod futurum est non exponat. Si tamen exponeret vel de pretio subtraheret, abundantioris esset virtutis, quamvis ad hoc non videatur teneri ex justitiae debito."

32. Riley, *Memorials of London*, 420.

33. *Artic.* 4: "Negotiari propter res necessarias vitae consequendas omnibus licet; propter lucrum vero, nisi id sit ordinatum ad aliquem honestum finem, negotiari ex se est turpe."

34. *Ib.:* "Secunda autem juste vituperatur; quia, quantum est de se deservit cupiditati lucri, quae terminum nescit, sed in infinitum tendit." This is derived from Aristotle, *Politics*, bk. i., chaps. 8, 9. As to Aristotle's use of *πέρας*, see Jowett, *Politics*, vol. ii., part i., p. 30.

35. *Ib.:* "Lucrum tamen, quod est negotiationis finis, etsi in sua ratione non importat aliquid honestum vel necessarium, nihil tamen importat in sua ratione vitiosum vel virtuti contrarium. Unde nihil prohibet lucrum ordinari ad aliquem finem necessarium, vel etiam honestum; et sic negotiatio licita redditur. Sicut cum aliquis lucrum moderatum quod negotiando quaerit ad domus suae sustentationem, vel etiam ad subveniendum indigentibus; vel etiam cum aliquis negotiationi intendit propter publicam utilitatem, ne scilicet res necessariae ad vitam patriae desint, et lucrum expetit non quasi finem sed quasi stipendium laboris."

36. The qualification "momentary" is here inserted because Aquinas distinctly recognizes that variation in supply must cause variation in price, as in his example in *artic.* 3, of "caristia frumenti." But the canonists never conceded that price could be determined by the arbitrary will of buyer or seller. They argued that in each state of the market there was a just price which dealers ought to recognize. As to the later doctrine of the canonists and the difficulties into which they fell, see Endemann, *Studien*, ii. 44–46. For an illustration of the practical working of this maintenance of "the common selling price in a particular market on a particular day," see *Memorials of London*, 236.

37. S. Luke vi. 35, as quoted from the Vulgate: "Mutuum date, nihil inde sperantes."

38. For the history of the prohibition, see Endemann, *Grundsätze der Canonistischen Lehre*, § 2.

39. The law of Justinian had limited the rate of interest to twelve per cent. for loans on cargoes, eight per cent. on loans for business purposes, in other cases to six and four per cent: "Jubemus illustribus

quidem personis sive eas praecedentibus minime licere ultra tertiam partem centesimae usurarum in quocumque contractu vili vel maximo stipulari; illos vero qui ergasteriis praesunt vel *aliquam licitam negotiationem gerunt* usque ad *bessem centesimae* suam stipulationem moderari: *in trajecticiis* autem contractibus vel specierum fenori dationibus *usque ad centesimam* tantummodo licere stipulari nec eam excedere, *licet veteribus legibus hoc erat concessum*: ceteros autem omnes homines dimidiam tantum modo centesimae usurarum posse stipulari et eam quantitatem usurarum etiam in aliis omnibus casibus nullo modo ampliari in quibus citra stipulationem usurae exigi solent. Nec liceat judici memoratam augere taxationem occasione consuetudinis in regione obtinentis;" *Codex*, IV. xxxii. 26, § 2. The *centesima* was one-hundredth each month, *i.e.* twelve per cent. See also Knies, 118.

40. Endemann, *Studien*, i. 119.

41. Ortolan (Engl. trans.), 542.

42. Stubbs. *Const. Hist.*, ii. 116 and n. 2. Francesco d'Accorso with his wife resided for some time in the King's Hall, in the northern suburb of Oxford. Lyte, *Hist. of Oxford*, 89, thinks "he must surely have given lectures on Roman law at Oxford."

43. *Decretales Gregorii* (quoted as "*X.*"), lib. 5, tit. 19 (*de usuris*), cap. 3 (ed. 1618, p. 694).

44. *Ib.*, cc. 5, 9.

45. *Liber Sextus* (quoted as "*VI.*"), lib. 5, tit. 5 (*de usuris*), c. 1.

46. *Ib.*, c. 2.

47. *Clementinarum*, lib. v., tit. 5 (*de usuris*), cap. unicum.

48. Endemann, *Studien*, i. 27.

49. See n. 39 above, and cf. Cunningham, *Usury*, 7, 8.

50. Endemann, *u.s.*, i. 19.

51. *Ib.*, 27–28.

52. Exodus xxii. 25. But, as Aquinas saw, it might be argued that the prohibition of taking money from a brother Jew implied permission to take it from Gentiles. Aquinas grants this, but says that it was allowed on account of the hardness of their hearts: "Quod autem ab extraneis usuram acciperent non fuit eis concessum quasi licitum, sed permissum ad majus malum vitandum; ne scilicet a Judaeis Deum colentibus usuras acciperent, propter avaritiam cui dediti erant;" *Secunda Secundae*, quaestio lxxviii., art. 1. The *Pipe Roll* of 4 Rich. I. contains an entry of a fine paid by Judas, a Jew of Bristol, "that it might be found by inquest in a chapter of the Jews, whether a Jew might take usury of a Jew;" Madox, *Exchequer*, 166 and n. (*u*).

53. . . . . "Pecunia . . . . principaliter est inventa ad commutationes

faciendas: et ita proprius et principalis pecuniae usus est ipsius consumptio, sive distractio, ... et propter hoc secundum se est illicitum pro usu pecuniae mutuatae accipere pretium, quod dicitur usura." In the *Decretum*, distinctio lxxxviii., c. xi., this argument appears in a quotation from a work there assigned to S. Chrysostom. He is met by the argument, How is the man who takes interest worse than a man who lets a house or an estate and receives rent for it? "Qui agrum locat ut agrariam recipiat, aut domum ut pensiones recipiat, nonne est similis ei qui pecuniam dat ad usuram? Absit. Primum, quidem, quoniam pecunia non ad aliquem usum deposita est, nisi ad emendum."

54. Jeremy Bentham thus begins his celebrated *Letters on Usury* (1787): "The proposition I have been accustomed to lay down to myself on this subject is the following one, viz., that no man of ripe years and sound mind, acting freely, and with his eyes open, ought to be hindered, with a view to his advantage, from making such bargain in the way of obtaining money, as he thinks fit; nor (what is a necessary consequence), anybody hindered from supplying him, upon any terms he thinks proper to accede to. This proposition, were it to be received, would level at one stroke all the barriers which law, either statute or common, have in their united wisdom set up against the crying sin of usury." These letters, with an often-quoted letter of Calvin, and with an interesting speech of Richard Dana in the Massachusetts House of Representatives (1867), are reprinted in convenient pamphlet form as *Tract IV.*, published by the American Society for Political Education, 1881.

55. The later history of usury laws, especially in Germany, is excellently sketched by Wagner, in Schönberg's *Handbuch der Politischen Œkonomie*, i. 313-316. He points out that the object of the recent German legislation is to retain the idea that usury is a criminal offence, but without fixing a hard line of distinction between usury and lawful interest.

56. Cf. Roscher, *Pol. Econ.*, bk. iii., ch. 4, § 190 (Amer. trans., ii. 128).

57. This is expressly allowed by Aquinas (qu. 78, art. 2). It is apparently condemned by a decretal of Gregory IX.; *X.*, lib. 5, tit. 19, cap. 19: "Naviganti . . . mutuans pecuniae quantitatem," etc. But see hereon Neumann, *Gesch. des Wuchers*, 17, 18.

58. *Past and Present*, bk. ii., ch. 4.

59. Landowners usually borrowed on the security of land, and other borrowers induced their friends to be sureties, "pledges," or "mainpernors." The frequency of this latter plan is shown by the provisions of the Statute of Merchants, 1283, *Stat. of Realm*, i. 54.

60. Endemann, *Studien*, ii., p. 383 seq. The stories about crucifixions

and the like crimes committed by Jews are doubtless mythical. What cannot be doubted is that they were sometimes guilty of openly insulting the faith of the people among whom they lived. Thus, on one occasion, Ascension Day, 1263, "as a long procession of clergy was wending its way towards the cemetery of S. Frideswide's to hear the public sermon, which the chancellor of the university was wont to preach on that day, a number of Jews made a sudden attack on the cross-bearer, and having wrenched the cross out of his hands, trampled it under foot ignominiously;" Lyte, *Oxford*, 67.

61. Endermann, *Studien*, i. 13.

62. Cunningham, *City Opinion on Usury*, in *Banker's Journal*, February, 1887.

63. *X.*, lib. iv., tit. 20, c. 7.

64. *Decr.*, causa 14, quaest. 3, cc. 1–4. Endemann, *Grundsätze*, § 4.

65. This is clearly the meaning of *X.*, lib. v., tit. 19, cap. 19, which lays down that a man is not to be reckoned a usurer who does as a matter of fact receive a greater value, if "utrum plus vel minus solutionis tempore fuerint valiturae, verisimiliter dubitatur."

66. Endemann, *Grundsätze*, 21, 22.

67. *X.*, lib. v., tit. 19, c. 2.

68. Lyndwood, *Provinciale*, lib. 3, tit. 10 (ed. Oxford, 1677, p. 160). The Pipe Roll of 9 John (Madox, *Exchequer*, 170) contains an entry recording the petition of a certain baron that, instead of his lands, which were pledged to the Jews, passing into their hands, he should keep them, paying their yearly value to the Jews until the debt was discharged. "Rogerus de Berkele (debet) lx. marcus: ut inquiratur quantum valeat per annum terra ejusdem Rogeri . . . cum pertinentiis, quae est vadium Judæorum Bristolliae et Gloecestriae pro debito quod eis debet: et quod ipse in manu sua teneat terram illam, et predictis Judæis valorem illius terrae singulis annis reddat, quousque prædictum debitum suum eis persolvatur."

69. *X.*, lib. 5, tit. 5, c. 6.

70. Freely translated from the *Ayenbite of Inwyt*, ed. Early Engl. Text Soc., pp. 35, 44.

71. Keary, *Introd.* to *Cat. Engl. Coins.*, vi., vii. As to a *store of value*, cf. Jevons, *Money*, 15, 16.

72. Keary, *Ib.*, xi.

73. *Ib.*, xvi., xvii. The early beginnings of Frisian trade is illustrated by the mention in Bede, *Eccl. Hist.* v. 22, of a Frisian merchant to whom a slave was sold in London, "whose chains fell off when masses were sung for him."

74. Keary, *Introd.*, xix., xx.

75. *Ib.*, xxiii.

76. *Ib.*, xxviii., xxix.

77. *Ib.*, ii., xxix., xxx.

78. *Ib.*, ii., iii., xxxi.

79. Cf. Green, *Conquest of England*, 72, 73.

80. Laws of Athelstan, II. (*Concilium Greatanleagense*), 14, § 2, in Schmid, *Gesetze der Angelsachsen*, 140.

81. Except, of course, during the two years' rule of Edgar over England north of the Thames, while Edwy was recognized in the south; and also during the divided rule of the kingdom by Edmund Ironside and Canute.

82. Freeman, *Norman Conquest*, i. 554, seq.

83. Ethelred, III. (*Concilium Wanetungense*), c. 8; in Schmid, 216.

84. See lists in Schmid, p. 140; in Ruding, vol. i.

85. Athelstan, III. 14; Ethelred, III., c. 17; in Schmid, 138, 219.

86. Stubbs, *Const. Hist.* (Libr. ed.), i. 378, 549. For France, see Hallam, *Middle Ages*, (ed. 1878), i. 205; for Italy and Germany, Raumer, *Hohenstaufen*, v. 344.

87. Ducange defines *monetagium* as "praestatio quae a tenentibus et vassalis domino fit tertio quoque anno, ea conditione ut monetam mutare ei non liceat." See article 5 in Henry I.'s *Charter of Liberties* (in *Select Charters*, 101), and cf. Ruding, i. 163.

88. Athelstan, II. 14, § 1; Ethelred, II. 8; in Schmid, 140, 216.

89. *English Chronicle*, s.a. 1125.

90. Ruding, i. 164.

91. *Ib.*, i. 171, 184. Of the coinage of 1180, Ralph de Diceto says (ii. 7, Rolls' ed.), "Philippus Aymari, natione Turonicus, mandato regis in Angliam veniens, numismatis innovandi procurationem suscepit. Hyemali siquidem festo beati Martini moneta veteri reprobata, nummus in forma rotunda commerciis hominum passim est per regnum expositus."

92. Rymer, *Foedera*, i. 12. Henry to Samson, bishop, and Urso d'Abetot, and all barons French and English in Worcestershire: "Sciatis quod volo et precipio quod omnes burgenses et omnes illi qui in burgis morantur, tam Franci quam Angli, jurent tenere et servare monetam meam in Anglia, et non consentiant falsitatem monetae meae." This illustrates the way in which the increasing importance of the currency was due to the growth of town life.

93. Ruding, i. 178.

94. *Ib.* No money was to be current wanting more than 2*s.* 6*d.* in the pound: such pennies as were more defective were to be bored through and returned to their owners, never again to be used.

95. Macaulay, chap. xxi. The supply of coin was so small that the government of Edward I. ordered, in 1300, the compulsory circulation even of *pollards* and *crockards* (*polled*, i.e. clipped, and *crooked* pennies), at the rate of two for a penny; *Memorials*, 42; *Liber Custumarum*, 563.

96. Ruding, i. 179. As to the general tendency towards uniformity of type, cf. Keary, in *Coins and Medals*, ed. Lane-Poole (1885), p. 107.

97. Ruding, i. 70.

98. *Ib.*, i. 187.

99. *Ib.*, i. 70.

100. *Ib.*, i. 193.

101. The statements in the two preceding paragraphs are all based on E. W. Robertson, *Historical Essays* (1872), 41–45, 60–67. For the Assize of Weights and Measures, see *Statutes of the Realm*, i. 204.

102. See Ruding, and for Edward's gold coinage, *St. of Realm*, i. 301.

103. Mention must also be made of the coinage of *groats* and *half-groats*. This is assigned by the continuer of Murimuth (p. 182), followed by Walsingham (Rolls' ed. i., 275), to 1351: "William of Edyngdon, bishop of Winchester, treasurer of the kingdom, and a man of great prudence, who loved the good of the king more than that of the community, devised and caused to be coined a new money, namely, the groat and half-groat; but these were of less weight than the like sum of sterling. This was afterwards the cause that food and merchandise became dearer throughout the whole of England." The chronicler does no more than echo the popular discontent at a novelty; the great plague of two years before and its consequences are quite sufficient to account for increased prices.

104. For English money of account, see Jevons, *Money*, 71; and Keary, *Introd. to Catal.*, xxxiii.–xxxv. As to payments by weight, see the account of Exchequer practice in the *Dialogus de Scaccario*, i., ch. 7, in *Select Charters*, p. 193.

105. *Statutes of the Realm*, i. 219.

106. *Ib.*, 132; respite of penalty, 134; lightened, 200.

107. *Ib.*, 219 (assigned to 12 Ed. II.).

108. *Ib.*, 273 (1335).

109. *Ib.*, 132, 272. As to the licences granted to individual merchants, see Ochenkowski, *Englands Wirthschaftliche Entwickelung*, 205.

110. Ochenkowski, 212, 213.

111. *Stat. of Realm*, i. 291.

112. The working of mediæval legislation on the coinage is made the more easy to understand when it is noticed that the business of *exchange* was a royal monopoly. *Cambium* is at first used for both *mint* and *ex-*

change; and for a long time the work of exchanging was entrusted to the royal moneyers. The writ of Henry I. before quoted (Rymer, i. 12) adds, "Defendo ne aliquis monetarius denarios mutat nisi in comitatu suo, et hoc coram duobus legitimis testibus. . . . Et nullus sit ausus cambire denarios nisi monetarius." John committed the "cambium totius Angliae" to one person for a large payment: probably he appointed local exchangers. This plan of appointing an exchanger for the whole kingdom, paying usually an annual sum to the king for the privilege, was long retained. Frequent statutes, from 1354 onward, forbade under the severest penalties any "exchange for profit" by unauthorized persons; and this prohibition was maintained till 1539, when its removal was largely due to the representations of Sir Thomas Gresham. See Ruding, ii. 138, seq.

113. *Political Economy*, bk. v., ch. 1, § 2 (i. 387).

114. *Social Statics*, ch. xxix.

115. Jevons, *Money*, 81.

116. Ricardo, *High Price of Bullion*. See criticism by Walker, *Money* (1878), p. 48, seq.

117. These estimates, which are frequently referred to in economic literature, are derived from Jacob, *Inquiry into the Precious Metals* (1831). They will be found summarized in Walker, *Money*, p. 124, seq.

118. *X.*, lib. iii., tit. xvii., c. 2.

119. *Summa*, Secunda Secundae, quaestio lxxvii., artic. 2.

120. Schmid, *Gesetze*, and Glossar. s.v. *Gemet;* for Edgar's law, p. 192.

121. Roger of Hoveden (Rolls' Series), iv. 33.

122. *Liber Custumarum*, 383. The citizens of London, objecting in 14 Edward II. to an ordinance that the gallon for ale should be larger than that for wine, "dixerunt quod una mensura vini et cervisiae erit concordans per totam Angliam, sicut continetur in Magna Charta de Libertatibus Angliae: et sicut usi sunt semper, et maxime a tempore Regis Ricardi, ab anno regni ipsius viii.; quando omnes mensurae Angliae examinatae fuerunt et factae concordes, et in Londonia standarda regia posita." This reference, with much other help in §§ 19, 21, is given by Schanz.

123. Hoveden, iv. 62.

124. Roger of Wendover gives an interesting piece of information, which shows how very largely the work of government depended on the personal action of the sovereign. He tells us that Henry III., on his journey from York to London in 1228, "mensuras bladi, vini, et cervisiae falsitatis arguens, quasdam confregit, et comburere nonnullas praecepit; et vasa substituens capaciora, panem majoris ponderis jussit fieri, et hujus

statuti contemptores poena gravi pecuniaria multari praecepit:" in Matthew Paris, *Chronica Majora* (Rolls' ed.), iii. 143.

125. *Stat. of Realm*, i. 204.

126. See Schanz, 580, and references there given to *Munimenta Gildhallae*. See also, in *Memorials of London*, 78, the oath exacted from turners not to make false measures (1310).

127. *Stat. of R.*, i. 330. A few sentences are here taken from my *Woollen Industry*, 31–34.

128. *Stat. of R.*, i. 203, 204. For later distinctions between *forestallers*, *engrossers*, and *regrators*, see 5 and 6, Ed. IV., c. 14; *Stat. of Realm*, iv. 148. But for use of *regrator* in the sense in which *forestaller* is used in the ordinance quoted in the text, see *Doomsday of Ipswich* in *Black Book of the Admiralty* (Rolls' Series), ii. 101. *Engross* and *forestall* seem to be used as equivalents in 27 Ed. III., st. 1, cap. 5, in *Stat. of Realm*, i. 331.

129. *Stat. of Realm*, i. 202; *Black Book of Admir.*, i. 71.

130. E.g. in 1350–1, 1353, 1357, *Stat. of Realm*, i. 315, 331, 353.

131. *Memorials of London*, 83, 318.

132. *Wealth of Nations*, ed. Rogers, ii. 103–111.

133. *Six Centuries of Work and Wages*, 144.

134. *Principles of Pol. Economy*, 205 (bk. ii. ch. 2, § 8).

135. *Pol. Economy*, i. 523, 524 (bk. ii., ch. 16, § 4).

136. An article in the *Spectator* for Dec. 31, 1887, on *The Monopoly of Copper*, strikingly illustrates the impotence of the modern abstract economist in handling practical problems. The writer declares that the French journalists who demand state interference with the syndicate are "economically" in the wrong; because, if high prices continue, there will be an increase of production, new mines being opened, etc., until the excess of supply forces prices down again;—disregarding the enormous waste of capital and labour which is involved in opening new mines which after a short time have to be shut again. He lays down that "it is quite impossible to show that cornering or engrossing is immoral, when the article purchased does not involve human life,"—a conception of morality which is probably less satisfactory than that of mediæval schoolmen. Yet he seems to think that if the application of the existing French laws against engrossing could destroy the practice, this might properly be deemed satisfactory by the public, though not by "sound economists."

137. *Liber Albus*, 692.

138. *Memorials of London*, 236.

139. *Ib.*, 314 (1363). Mention ought to have been made in the text of the action of the Government in the matter of the *export of corn*. The

general rule, certainly from 1177, probably from a much earlier date, was that export was entirely forbidden except by royal licence. Dr. Faber, in his *Entstehung des Agrarschutzes in England* (Strassburg, 1888), p. 65, argues that the policy of the executive was influenced in the thirteenth century chiefly by a wish to secure cheap food, in the fourteenth century to increase the royal revenue. The *Carta Mercatoria* gave permission to foreign merchants to export corn on paying a duty of 3*s.* in the pound; a privilege which shared the history of the rest of the provisions of that charter. *Vide supra*, 107, 108, and Faber, 75–77.

140. Matthew Paris, *Chronica Majora* (Rolls' Series), ii. 480. The earliest extant enactment on the subject occurs among the regulations drawn up for the crusaders by Richard and Philip Augustus, at Messina, in 1190: "Statutum est a domino rege anglorum et constabulariis et justitiis et marescallis exercitus regis Angliae, quod mercator de quacunque mercatione sit non potest emere panem *ad revendendum* in exercitu, nec farinam [*i.e.* to forestall] . . . Si autem aliquis bladum emerit et de eo panem fecerit, tenetur lucrari in salma [a seam, or quarter of grain], unum terrim [the Sicilian coin called *tarenus*, weighing 20 grains of gold] tantum, et brennon [the bran]. Alii vero mercatores, de quacunque mercatione sint mercatores, in decem denarios tenentur lucrari unum denarium. . . . Et ne aliquis carnem mortuam emat ad revendendum, nec bestiam vivam, nisi eam occiderit in exercitu. Nullus vinum suum post primam conclamationem carius vendat. Nullus panem faciat nisi ad unum denarium;" Benedictus, *Gesta Henrici II. et Ricardi I.*, ii. 131 (ed. Stubbs, Rolls' Series).

141. *Stat. of Realm*, i. 199.

142. Rogers, *Hist. of Agric.*, i. 217.

143. As the translation is not altogether certain, it will be well to give the text here: "Sciendum est quod pistor potest lucrari in quolibet quarterio frumenti, ut probatum est per pistores domini regis, quatuor denarios et furfur [et duos panes] ad furnagium, tribus servientibus denarium et obolum, duobus garcionibus obolum. In sale obolum. In gesto obolum; in candela quadrantem. In bosco [ii. denarios]. In bultello habendo [denarium et obolum]." The amounts given within brackets differ in the copy preserved in the London *Liber Horn.*

144. *Stat. of Realm*, i. 201.

145. Statute of York, c. 6, 12 Ed. II. in *Stat. of Realm*, i. 178. The prohibition includes the sale of wine.

146. Cf. Schanz, 637, 638. For the office of Justice of the Peace, see Gneist, *Self-Government*, (1871), § 11.

147. In the London archives is a folio volume of 164 leaves (34 blank),

marked *Assisa Panis*, containing a register of the weights of bread as fixed from time to time, and of many of the cases of violation of assize that were brought before the mayor. Extracts are printed in the Appendix to *Munimenta Gildhallae*, iii. For William le Bole's case, see p. 411. The plan of reckoning the price of the quarter at the market price of the wheat *plus* the cost of baking, seems to be different from that prescribed in the copy of the assize printed in the Statute Book.

148. Glossary to *Mun. Gildh.*, iii. 304, *s.v.* "Claie."

149. *Stat. of Realm.*, i. 202. An article in the Assize of Bread (*ib.*, 200), makes a distinction between town and country prices: "When a quarter of wheat is sold for 3*s.* or 3*s.* 4*d.*, and a quarter of barley for 20*d.* or 2*s.*, and a quarter of oats for 16*d.*, then brewers in cities ought and may well afford to sell two gallons of ale for a penny, and out of cities to sell three gallons for a penny. And when in a town three gallons are sold for a penny, out of a town they ought and may well afford to sell four."

150. Rogers, *Hist. of Agric.*, i. 219.

151. *Ib.*, 618, 623.

152. Hoveden, iv. 99. See Schanz, i. 642, seq.

153. Statute of Bakers, in *Stat. of Realm*, i. 203.

154. Statute of Gloucester, *ib.*, i. 50.

155. *Ib.*, 264.

156. The king's writ of 1311 orders that "the mayor and aldermen shall cause eight or twelve good and lawful men to be chosen, who are the most skilled in wines, and shall make them swear well and lawfully to assay the wines in all the taverns of London, and in the suburbs of the liberties thereof; and they shall cause the tuns to be marked, each at its value, with the mark that shall be thereunto ordained, that is to say: The gallon of the best wine to be sold at five pence, the next best at four pence, and the rest at three pence per gallon, for this year. And let every wine be set at its value without mixture; and let each tun be marked at the end in front, that so the buyer may readily see the value of the wine. And let every buyer see his wine drawn, that so he may not be deceived;" *Memorials*, 82; cf. 182.

157. Rogers, *Hist. of Agric.*, i. 622.

158. Rob. of Avesbury, *de mirabilibus gestis Edwardi tertii* (ed. Hearne, 1720), 197.

159. In Stat. of Bakers, *Stat. of Realm*, i. 203.

160. *Memorials*, 133, 159.

161. *Liber Custumarum*, 304; *Liber Albus*, 713.

162. The *Assize of Poultry* of 14 Ed. II. is given in the *Liber Custu-*

marum, 304: "Et a ceste assise gardier, soient ordonez par les Meire, Aldermans, et Viscountes, vi. prodeshommes de la cite, qe *ne soient pas du mestier;* issint qe les iii. soient assignez a garder lassise a la Sale de Plom [*i.e.* Leadenhall], entre les foreinz [*i.e.* non-burghers], et les autre iii. soient a la Poletrie [*i.e.* the Poultry], pur garder lassise entre les denzeins." As to the Leadenhall market, see *Memorials*, 220, 221.

163. E.g. *Memorials*, 90, 119, 121, 132, 139.

164. *Liber Albus*. 728. For conditions of labour in rural districts, see Rogers, *Hist. of Agric.*, i. 253.

165. *Liber Albus*, liii., 733.

166. *Ib.*, 719.

167. *Memorials*, 234.

168. *Liber Albus*, Introd. liii.

169. To judge from § 24 of the ordinances of the weavers, 28 Ed. I., in *Liber Custumarum*, 126: see translation in *Mun. Gildh.* ii. pt. 2, p. 550.

170. *Liber Custumarum*, 416, seq. Cf. *Engl. Woollen Industry*, 45–47.

171. Schmid, *Gesetze*, 518.

172. *Dialogus*, II., ch. 10, in *Select Charters*, 229. The writer draws a distinction between "public" and "private" usury. "Publicas igitur et usitatas usuras dicimus quando, mora Judaeorum, in eadem specie ex conventione quis amplius percepturus est quam commodavit; sicut libram pro marca, vel pro libra argenti duos denarios in septimana de lucro praeter sortem [the rate permitted to the Jews]; non publicas autem sed tamen damnabiles cum quis *fundum* aliquem vel ecclesiam pro commodato suscipit, et *manente sortis integritate*, fructus ejus, donec sors ipsa soluta fuerit, sibi percipt. Hoc genus propter laborem et sumptum qui in agriculturis solent impendi licentius visum est; sed procul dubio sordidum est et inter usuras computandum merito." We have seen (*supra*, p. 159) that it was expressly forbidden by Alexander III.

173. *Stat. of Realm*, i. 296. Madox, *Exchequer*, 237, gives five examples, from the Pipe Rolls of the later years of Henry II., of the forfeiture of the "pecunia" and "catalla" of usurers.

174. See Cunningham, in *Journal of Institute of Bankers*, Feb. 1887.

175. Endemann, *Studien*, ii. 243, seq. The most important passage in Roman law on this matter is *Codex*, VII. 47: "Cum *pro eo quod interest* dubitationes antiquae in infinitum productae sunt, melius nobis visum est hujusmodi prolixitatem prout possibile est in angustum coartare. Sancimus itaque in omnibus casibus, qui certam habent quantitatem vel naturam, veluti in venditionibus, et locationibus et omnibus contractibus, hoc quod interest dupli quantitatem minime excedere: in aliis autem casibus, qui incerti esse videntur, judices, qui causas dirimendas suscipiunt,

per suam subtilitatem requirere, ut quod re vera inducitur damnum, hoc reddatur et non ex quibusdam machinationibus . . . in circuitus inextricabiles redigatur. . . Et hoc *non solum in damno sed etiam in lucro* nostra amplectitur constitutio."

176. *Summa*, Secunda Secundae, quaestio lxxviii., artic. 2.

177. "Interesse non debetur nisi ex mora;" Endemann, *u.s.* 253, 254.

178. *Ib.*, 272. [On the whole subject now see bk. ii. ch. 6, § 65.]

179. *Chronica Majora*, (Rolls' Series), III. 328, 331.

180. *Ib.*, IV. 8.

181. *Ib.*, IV. 422.

182. *Ib.*, IV. 245. Here the phrase occurs "*Transalpini* quos Causinos appellamus."

183. *Ib.*, III. 329.

184. *Ib.*, V. 404.

185. Hitherto the best available sources of information concerning the position of the Jews in England before the expulsion were Prynne's *Demurrer*, and the chapter on the Exchequer of the Jews in Madox's *Exchequer*, from which all later accounts, such as Tovey's *Anglia Judaica* were drawn. But these are now superseded by the valuable paper of Dr. Gross, *The Exchequer of the Jews in England* (London, *Jewish Chronicle* Office, 1887), based largely on the manuscript and hitherto unused *Rotuli Judaeorum* in the Public Record Office.

186. For the *Capitula de Judaeis* of 1194, see *Select Charters*, 262. The list of towns possessing chests is given by Gross, *Exchequer of the Jews*, 20: they were Bedford, Berkhamstead, Bristol, Cambridge, Canterbury, Colchester, Devizes, Exeter, Gloucester, Hereford, Huntingdon, Lincoln, London, Marlborough, Northampton, Nottingham, Norwich, Oxford, Stamford, Sudbury, Wallingford, Warwick, Wilton, Winchester, Worcester, and York. The following towns obtained grants from Henry III. and Edward I., prohibiting Jews to settle there:—Derby, Leicester (grant from Simon de Montfort), Newbury in Berks, Newcastle, Romsey, Southampton, Winchelsea, Windsor, Wycombe, and the following Welsh boroughs, Bala, Beaumaris, Carnarvon, Conway, Criccieth, Flint, Harlech, Newborough, and Rhuddlan (*ib.*, 23). Mr. Gross points out (p. 4) that "in Germany the authorities of a town frequently besought the king to allow Jews among them;" the explanation of this contrast lying in the fact that the central power was so much weaker in Germany that the townsmen were able to reap the advantages from the presence of the Jews, which in England the monarch kept to himself.

187. *Ib.*, 28.

188. *Ib.*, 30–34.

189. *Select Charters*, 385, § 25.

190. Gross, 40. Cf. supra, n. 172. Hence it appears that Lyte, *Hist. of Oxford*, 44, is mistaken in supposing that the order to this effect in 1248 imposed a new restriction.

191. Lyte, 40.

192. *Ib.*, 101.

193. *Stat. of Realm*, i. 54.

194. *Ib.*, i. 99.

195. *Ib.*, i. 165.

196. Ochenkowski, *Englands wirthschaftliche Entwickelung*, 179.

197. 27 Ed. III., stat. 2, c. 17, *Stat. of Realm*, i. 339. A statute two years earlier (25 Ed. III., stat. 5, c. 23, *Stat. of Realm*, i. 324), enacted that the companies of Lombard merchants should be answerable for the debts of their members: "so that another merchant which is not of the company shall not be thereby grieved or impeached."

198. As to the general course of development, cf Schmoller, *Studien über die wirthschaftliche Politik Friedrichs des Grossen*, ii. (in *Jahrbuch für Gesetzgebung*, etc., *im Deutschen Reich.*, Jahrg. viii., Hft. 1, 1884); translated by the present writer under the title *The Mercantile System* (1896).

INDEX.

Abingdon market, 98
Accounts, the keeping of, 33
Accursius of Bologna, 149
Acre strips, 6
Alderman, 72
Ale, regulation of the price of, 190
Amiens, 106, 109
Antwerp, 112
Apprenticeship, 89
Aquinas, S. Thomas, 133, seq., 178, 197, 207, 211
Aristotle, 145, 152, 154
Artisan system, 76
Assay of wines, 192, 219
Assize of Bread and Ale, 188, seq., 219
Assize of Measures, 179, 181, 188
Assize of Poultry, 220
Assize, the new and *the old*, 30
Athelstan, 48
Aulnager, 180
Ayenbite of Inwyt, 161

Bagehot, Mr., 122
Bailiff, 10
Bakers, 189, 190
Balance of Trade, 175
Baldus, 151
Balks, 6
Barley, price of, 190
Bartolus, 151
Beauchamp, manor of, 23
Bedrips, 9
Bentham, 212
Berwick, 67, 72, 75
Bill obligatory, 204
Black Death, 194
Bladarii, 190
Boldon Book, 3
Bologna, 130
Boondays, 9
Bordar, 8
Boston fair, 101, 106
Bracton, 4, 99, 131
Bread, regulation of price of, 187, seq.
Brentano, Prof., 67, 84, 91
Brewers, 191
Bridges, 98
Bristol, 96, 100, 108, 170, 204
Bruges, 110, 112, 205
Burellers, 86
Burgage tenants, 73
Burgesses, 80, 103, seq., 114
Burton, Abbot of, 38
Burton Chartulary, 3
Butchers, 192

Cahors, 198
Calais, 112
Calendar of Letters, 108
Cambium, 216
Canterbury, 169, 170, 205
Canterbury, Archbishop of, 165
Capital, 42, 43, 93, 155
Carling princes, 165, 170
Carlisle, 169
Carlyle, Thomas, 115, 155
Carta Mercatoria, 106, 205, 218
Carting, service of, 9, 31
Caursines, 196, 198
Censarii, 22

Charles the Great, 148, 170
Charter, holding by, 22
Charter, the Great, 179, 202
Chest of S. Frideswide, 203
Chests of Jews, 202, 221
Chichester, 169
Cinque Ports, 35
Clement, 128
Clerks, itinerant, 33
Cloth, 74, 180
Coinage, 48, 163, seq.
——, "adulterine," 167
Cologne, 110, 134
Common fields, 7
Commune, the, 72
Commutation, 20, 29, seq.
Consumptibles, 152
Corbie, 106
Cordwainers, 95, 144
Corn, trade in, 182, seq., 218
Corners, 187
Corvesars, or leather-dressers, 81
Cost of production, 138, 139, 209
Cotter, 8
Coulanges, M. Fustel de, 5
Council of Lyons, 150
—— at Mainz, 178
—— of Nicæa, 148
—— of Tours, 159
—— of Vienne, 151
Court *Baron*, 33
—— *Customary*, 61
—— *Leet*, 34, 79
—— of London weavers' gild, 86
—— of *pie-powder*, 101
Courts, Ecclesiastical, 196
Credit, 160
Crockards, 215
Cunningham, Mr., 52, 118, 125
Custom-dues, 107, 111
Customary tenants, 31
Customers-lond, 64

Daily works, 9
Damnum emergens, 196
Danegeld, 48
Danish settlement, 19
Dante, 198
Debts, recovery of, 203, *seq.*
Decretum, the, 153
Demesne, 7
Dialogus de Scaccario, 46, 195
Diceto, Ralph de, 23
Dies for coining, 169
Dimidii virgarii, 24
Division of labour, 77
Dizena, 45
Domesday Book, 3, 18, 114
Domesday of S. Paul's, 3, 23
Douai, 205
Dover, 173
Droitwich salt-works, 35
Durham, 169, 170

Echevins, 72
Edward the Confessor, 195
Edward I., 39, 48, 87, 156, 182, 193
Edward II., 31, 172, 179, 189
Edward III., 49, 170, 174, 183
Ell-yards, 179
Endemann, W., 124, 158
Engrossing, 182–184
Essart, 27
Exchange, 216
Exchequer of the Jews, 202
Exeter, 169, 204

Fairs, 99, seq.
Falsa Moneta, De, 173
False work, 90, 120, 144
Farthings, silver, 171
Fields, intermixed, 17
Firma or *ferm*, 34, 45
Firma burgi, 37
Firmarius, 44
Flanders, 49, 99, 100, 104, 109
Fleta, 4, 9, seq.
Florence, 109
Forestalling, 182, seq.
France, 78, 99, 104, 109, 150, 167, 191, 192
Frank empire, 170
Frank homme, 83
Frederick II., Emperor, 201
Freedom of trade, 183
Freeman, Professor, 16, 115
Freemen, 14, 18
—— commended, 19

Fungibles, 152
Furlong, 6
Furnage, 189

Gascony, 104
Gain, 128, 145, 157, 203
Genoa, 160
German legislation on usury, 154, 212
Germany, 78, 104, 110, 167
Ghent, 205
Gild, the merchant, 67, seq., 79, 80
Gilds, "adulterine," 81
——, craft, 67, 74, 76, seq., 194
Glanvill, 38, 72, 116
Gratian, *Decretum* of, 124, 158
Gresham's law, 175
Groats, 215
Grocers, 160
Gross, Dr., 67, 221
Grossteste, 201, 203
Guérard, M., 5
Guienne, 35

Hale, Archdeacon, 44
Half-groats, 215
Halfpennies, silver, 171
Hall-moot, 62
Hanse, 70
—— of London, 104, 106, 109, 123
——, Teutonic, 104, 109
Hanssen, Georg, 4
Henry I., 23, 47, 168
Henry II., 71, 82, 86, 171, 188
Henry III., 49, 105, 171, 188, 198, 205
Henry VII., 172
Heriot, 37, 48
Hildebrand, 43
Homage, the, 26, 59
Hull, 173
Husband, 8
Husbandland, 7

Inland, 7
Inns, 98
Interest, 132, 148, seq.; original sense, 196, seq.
Ipswich, 169
Irnerius, 149
Iron, 35
Italy, 105, 150, 160, 167

Jevons, Mr., 137
Jews, 155, 156, 200, seq., 212-3, 221
——, Exchequer of, 202
——, Expulsion of, 203
John, King, 21, 82, 169
Journeymen, 89
Judges, itinerant, 179
Judicium Pilloriae, 189, 190
Juris Canonici, Corpus, 178
Jurisdiction, ecclesiastical, 195
——, manorial, 14, 18
Justices of the peace, 189
Justinian, 128, 131, 133, 149, 151, 210

Kemble, J. M., 4
Kent, 165
Knies, Karl, 65, 125
Kytchen, John, 5

Labourers, 32, 93
Lammas lands, 7
Land *at rent*, 23
—— *at work*, 23
Lassalle, Ferdinand, 65
Lateran Council, 149
Law, Canon, 124, 127, seq., 200
——, maritime, 131
——, merchant, 113
—— of nature, 127, 135
——, Roman, 15, 131, seq., 152, 163, 196
Laws of Edward the Confessor, 195
—— of Ethelred, 167, 168
——, Welsh, 16
Leicester, 65, 72, seq.
Liber Niger of Peterborough, 3, 18
Liberi homines, 18
Lincoln, 169, 204
Livre Tournois, the, 171
Lombards, 196
London, 70, 72, 81, seq., 96, 106, 110, 169, 170, 173, 179, 183, 189, 192-193, 205
London, bushel of, 171
——, quarter of, 179

London, *Book of Customs*, 83
——, Roger, Bishop of, 198
Lord of the manor, 6
Loveboons, 9
Lübeck, 110, 205
Lucrum cessans, 196
Lynn, 108, 169

Magna Carta, 105
Maine, Sir Henry, 5, 127
Manor, 6, seq.
Mark system, 7
Markets, 48, 69, 98, 99, 193
Masons, 88
Maurer, Georg von, 4
Mayors of the staple, 112
Meat, 192
Mendicant Orders, 149
Mercantile theory, 174
Merceries, 107
Merchant Adventurers, 84
Merchants, 77, 80, seq., 144, 160, 203
——, foreign, 103, seq., 192, 198, 204, 205
——, papal, 198
Merchants, Statute of, 203
Mercia, 165
Merovingian princes, 164
Messor, 32
Mestiers (i.e. crafts), 95
Mill, J. S., 65, 137, 175, 186
Mills, 34, 62
Millstones, 36
Minting, 167, 169
Molmen, 21, 56
Money, 46, 163, seq.
——, a store of value, 164
——, foreign, 173, seq.
—— *of account*, 172
Moneyage, 168
Moneyers, 48, 49, 114, 165, seq
——, Merovingian, 170
Morning-speeches, 71, 115

Nasse, Erwin, 4
Nesle, 106
Netherlands, 78
Newcastle, 204
Nicæa, Council of, 148
Noke, 28
Norfolk, 18
Normal value, 138
Northampton, 169, 205
Northumbria, 165, 166
Norway, 36
Norwich, 114, 169, 205
Nottingham, 204

Ochenkowski, 67
Offa, 165
Oxford, 81, 98, 101, 169, 192
—— University, 99, 192

Paris, Matthew, 198, 199
Paulus, 132
Paviours, 193
Payments, in kind and in money, 46
——, by weight, 172
Pening, the, 171
Penny, 165, 170
——, *sterling*, 171
Pepin the Short, 165
Pisa, 160
Plague, the, 192
Ploughing, 10
Pollards, 215
Pomponius, 133
Pope, Alexander III., 149, 159, 160
—— Calixtus, 168
—— Clement V., 150
—— Gregory IX., 158
—— Gregory X., 150
—— Innocent III., 156
—— Leo the Great, 129
Portmanmote, 79
Portsmouth, 183
Pound of Charles the Great, the, 171
Precariae, 9
Price, "just," or "reasonable," 133, 137, 146, 178, 181, 191, 210

Reeve, 10, 167
Regrating, 182
Repselver, 115
Ricardo, 176, 177
Richard I., 179, 188, 202
Roads, 97
Rochester, 169
——, Bishop of, 166
Rogers, Mr. Thorold, 4, 5, 68, 185

Roscher, W., 66, 125
Rotuli Hundredorum, 4

S. Ambrose, 126, 140, 142, 158
S. Augustine of Hippo, 129, 133, 158, 208
S. Chrysostom, 144, 153
S. Edmund Rich, 159
S. Edmundsbury, 101, 169
S. Ives, 101
S. Jerome, 129, 144, 158
S. Omer, 205
Salt, 35
Sceattas, 164
Scutage, 48
Seebohm, Mr., 5, 15, 25
Servi, 17
Serving-men, 90
Shrewsbury, 205
Sidgwick, Professor, 186
Skins, trade in, 70, 74
Slaves, 8, 70
Smith, Adam, 77, 181, 184, 185
Soc, 19
Socage, 25
Socmen, 18, 25
Southampton, 72, 75, 100, 108, 204
Spain, iron from, 36
Spencer, Mr. Herbert, 175
Spiceries, 107, 160
Stamford, 101, 180
Standard of comfort, 139
Staple, the, 111, seq.
Statute of Acton Burnell, 204
—— *of Merton*, 26
Steelyard, the, 111
Steward, office of, 10
Stourbridge fair, 99
Stubbs, Bishop, 5, 14, 118
Stycas, 166
Suffolk, 18
Sussex, 35

Tables of Exchange, 173
Tar, 36
Taverners, 191, 192
Tenure, servile, 21; free, 21
Terrae operariae, 24
Tertullian, 128
Tolls, 98, 100
Totnes, 72, 80
Trade, foreign, 102, seq.
Trade, internal, 96, seq.
Trial of the pix, 170
Tuckers, 96
Type of coins, 169

Usury, 148, seq., 195, seq., 212

Vacarius, 131
Value, theories of, 137
Villata, 12
Villeins, 8
Villenage, land in, 7
Virgate, 7

Wages, regulation of, 193, 194
Wagner, Adolf, 66
Wallace, Mr., 12
Wallingford, 98
Waste-land, 26
Wax-chandlers, 88
Weavers, 27
——, Flemish, 180
Weavers' gilds, 81, 86, 106, 194
Week work, 9
Weight, payments by, 172
Weights and measures, 147, 161, 171, 178, seq.
Welsh, survival of, 17
Wergild, 164
Wessex, 165
White-tawyers, 91
William I., 70
William II., 100
William III., 180
Winchester, 99, seq., 108, 169, 178
Wine, regulation of the price of, 191, 192
Wistas, 7
Worcester Priory, 30, 35
Work-land, 24, 57

Yardland, 7
Yardling, 8
York, 169, 170, 204
——, Archbishop of, 166
Ypres, 205

PRINTED IN GREAT BRITAIN BY
WILLIAM CLOWES AND SONS, LIMITED,
BECCLES.

21/2 4

BINDING SECT. NOV 1 0 1970

HC
254
A72
1906
v.1

Ashley, (Sir) William James
An introduction to English economic history and theory. 4th ed.

PLEASE DO NOT REMOVE
CARDS OR SLIPS FROM THIS POCKET

UNIVERSITY OF TORONTO LIBRARY